

## **Professional Malpractice**

No area of case preparation and litigation are more challenging than professional malpractice actions. The Firm has handled professional malpractice cases both for the injured party and professional person. Professional malpractice cases usually involve medical providers, including physicians, hospitals, and nurses, dental providers, and lawyers, but in fact may involve any profession.

In general, most cases of medical malpractice that are tried before a jury result in verdicts in favor of the professional person. There are several reasons for this: 1) Many times, bad results are not caused by negligence on the part of the professional, 2) Conduct is negligent only if it falls below that of other professionals in the same field or specialty, 3) Obtaining good professional witnesses is often more difficult for the injured party, and finally, 4) Preparation and trial of a medical malpractice case usually requires expensive commitment for medical expert witnesses and often there is a wide disparity between the assets an injured party can commit and those that the professional's insurance company is willing to spend.

While there may be attorneys who will take any malpractice case with the hope of getting some settlement for annoyance potential, The Firm realizes that an immense amount of work and sometimes costs may be risked representing the injured party. Professional malpractice cases are generally handled on a contingency - meaning that as the attorney only gets paid if he or she is successful. Choosing good cases to pursue is also important to the client, since the client usually will invest substantial time and physical and emotional energy as well as incur costs for expert opinions. All cases are carefully screened for the following: 1) whether the professional was negligent, 2) whether the negligence was a cause of the injury, 3) whether the injuries are permanent or disabling, and 3) whether there is a likelihood of insurance recovery.

The Firm's usual procedure in screening a malpractice case is first to offer a free preliminary consultation by phone, followed by a free consultation in the office where merited. Preliminary history is taken. Thereafter, medical records and professional's records are obtained and reviewed with qualified health care providers. If the client and attorney feel the case should be pursued, expert opinions will be obtained. Often, if a really good case is prepared, insurance companies will settle to avoid excessive risk, although medical policies usually provide that the health provider may not settle against the physician's consent. In general, legal malpractice cases tend to be clearer and less difficult.

The Firm welcomes the review of malpractice cases and generally will offer its insightful advice regardless of whether the case is accepted or not.