



Healthcare

Overview

According to the Journal of the American Medical Association (JAMA), medical malpractice is the third leading cause of death in the United States—right behind heart disease and cancer. In fact, it is estimated that medical errors kill roughly 200,000 patients in the U.S. each year. In 2012, over \$3 billion was spent in medical malpractice payouts, averaging one payout every 43 minutes. Between 15,000 and 19,000 malpractice suits are brought against doctors each year with over 70% of physicians being named in a medical malpractice suit at some point in his or her career. Fortunately, 93% of all medical malpractice cases are resolved before trial and, with the right counsel in charge of the defense, physicians often win medical malpractice suits at trial.

The most common reason for bringing a medical malpractice claim is a physician fails to meet the “standard of care” provided by other doctors under similar circumstances. However, there are others: failure or delay in diagnosing a patient’s condition, misreading X-rays, prescribing the wrong pharmaceuticals, anesthesia errors, surgical errors, failing to warn a patient of the risks or side effects of a procedure and performing services without the patient’s informed consent.

Ericksen Arbutnot’s healthcare practice group focuses on healthcare providers and institutions, including malpractice defense, peer review, employment issues, and disciplinary actions brought against the license of a healthcare providers. Our healthcare clients include doctors, nurses, midwives, dentists, podiatrists, pathologists, radiology technicians, paramedics, psychiatrists, psychologists, counselors, eating disorder clinics, troubled teen clinics, skilled nursing facilities and assisted living facilities.

Lawsuits filed against mental health professionals are also on the rise with the practitioners held to the same or similar standards of physicians as they apply to the care and treatment of their patients. Claims often arise when there is a perceived failure of the practitioner to warn when a patient threatens harm to another person or where there are alleged violations of the practitioner/patient confidentiality. In addition, there are claims regarding the prescription of psychotropic drugs by psychiatrists for the treatment of mental illnesses, including, but not limited to, schizophrenia, depression and bipolar disorder with issues related to consent and potential side effects.

Our attorneys regularly provide seminars to our clients related to pre-litigation risk management, the Medical Injury Compensation Reform Act (MICRA), and on how “to win” your deposition. Additionally, our attorneys are well-versed in the Medicare Secondary Payer Act and other issues related to medical liens.

No healthcare professional wants to be sued or face disciplinary action; our attorneys are committed to returning you to your practice as quickly as possible and preserving your integrity throughout the process.

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Representative Cases

- Verdict Search
November 27, 2017
- Hauzer v. Watson
September 29, 2017
- Received a defense verdict for a pharmacy that allegedly failed to provide all the medications called for by a dentist in connection with an implant surgery...
- Were awarded a favorable judgment for a nursing home in which there were claims of abuse by employees of the nursing home.
June 13, 2017
- Successfully appealed an Administrative Judgment, which resulted in restoring a psychologist's license and dismissing all claims against him by the Board of Psychology.
June 13, 2017
- Frequently provide consultation with healthcare professionals in responding to board inquiries resulting in most of the matters being closed with no action against the professional.
June 13, 2017

- Negotiated Settlements
March 23, 2018
- Obtained a Summary Judgment with a finding of no liability in a malpractice action against an operating room nurse, in which serious injuries were being claimed to have occurred due to positioning during surgery.
June 13, 2017
- Healthcare Claims

News

- Partners Joseph J. (J.J.) Minioza, Douglas (Gregory) Kilduff, David Frankenberger, and Carol Ann Seita Are Selected as 2022 Super Lawyers
July 7, 2022
- San Jose Office Wins Motion to Dismiss RICO Claims
January 20, 2022
- Oakland/East Bay Office Prevails in Motion for Summary Judgment Against BART in Federal Court
January 4, 2022
- Fresno Office Prevails on Motion for Summary Judgment in Medical Malpractice Case
December 2, 2021
- Partners Joseph J. (J.J.) Minioza, Douglas (Gregory) Kilduff, David Frankenberger, Andrew Chan and Carol Ann Seita Are Selected as 2021 Super Lawyers
July 12, 2021
- Silicon Valley/San Francisco Office Prevails on Motion For Summary Judgment in Claim for Elder Abuse/Wrongful Death
June 29, 2021
- Sharon Hightower named the Chair of the Firm's Diversity Committee
November 23, 2020
- Sharon Hightower Named Chair of the Firm's Diversity Committee
November 23, 2020
- Oakland/East Bay Office's Demurrer Sustained for Ambulance Company Based on MICRA's One-Year Statute of Limitations
August 20, 2020
- Joseph J. (J.J.) Minioza, Douglas (Gregory) Kilduff, David Frankenberger, and Andrew Chan Are Selected as 2020 Super Lawyers
July 1, 2020
- David J. Frankenberger, Jr. named Top Attorney in Northern California 2019
November 18, 2019
- San Jose Office Achieves Defense Verdict In Lanham Act Case
June 1, 2017
- Ericksen Arbuthnot's San Jose Office Prevails On Motion For Summary Judgment On Claim Alleging Autism Center's Behavioral Plans Caused Student's Increased Disruptive Behaviors
October 2016
- Mark L. Kiefer Wins Summary Judgment and Subsequent Appeal by Plaintiffs in Medical Malpractice Claim
May 2013

Publications

- Trial Court Did Not Err in Declining to Instruct Jury with CACI 509 in Medical Malpractice Case Involving Doctor's Early Departure from Hospital - Zannini et al. v. Mark A. Liker, M.D., No. B302404 (Cal. Ct. App. Jan 31, 2022)

March 29, 2022

- Supreme Court Oral Arguments Indicate Potential Limitations on Anti-SLAPP Motions To Strike May Be Imminent

May 6, 2021

- California Supreme Court Unanimously Rules Intentional Tortfeasors Not be Afforded Apportionment of Fault in Multi-Defendant Lawsuits

August 27, 2020

- MICRA Limits Noneconomic Loss Caused by Physician Assistants' Unsupervised Acts

April 13, 2020

- *Corenbaum v. Lampkin*: The New Paradigm for Evaluating Damages in Personal Injury Cases

May 2013

Events

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