

# Learning from EM Malpractice Lawsuits

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MoCEP

# Conflicts

No CME conflicts

Newsletter

# Disclaimer

Nothing specific to my practice

Every case is different, malpractice lawsuits are extremely fact-specific

Purposefully avoid Missouri cases

# Why review malpractice cases?

- Rumors/hearsay abound
- Fear improves learning
- Case-based
- Rare and unique cases
- Identify common themes
- Non-medical / “soft” skills
- Risk management

# Why NOT to review malpractice cases

- No radiology, rare EKGs
- Not evidence-based
- Fear can teach the wrong lessons
- Immature reaction (“they’re all frivolous”)
- Young learners

# Case #1 – Medical Facts

- 48-year-old man
- Found unresponsive in yard at 7pm, LKN between 6-6:30pm
- 7:47pm ED arrival
- CT: ordered 7:56pm, report signed 8:54pm
- MRI: ordered 9:26pm, report signed 10:00pm with left MCA stroke
- Neurologist consulted 9:30pm, arrived at 10:45pm, tPA given at 10:50pm
- Permanent right hemiparesis and aphasia

# Case #1 – Accusations

- b) He failed to document a complete neurological examination of B■■■■ A■■■■;
- c) He failed to timely and properly assess and evaluate B■■■■ A■■■■'s neurological condition;
- d) He failed to order a Stat CT Scan and notify the CT tech of a "BAT Scan";
- e) He failed to order a timely MRI of the brain;
- f) He failed to timely consult with a neurologist;
- g) He failed to timely diagnose B■■■■ A■■■■ with an ischemic stroke. ;  
and
- h) He failed to timely administer TPA treatment to B■■■■ A■■■■;

# Case #1 – Legal Outcome

- ED doctor settles first (confidential)
- Neurologist and Radiologist settle later

## OFFER OF COMPROMISE

Pursuant to [REDACTED], the Plaintiffs hereby offer to compromise the above entitled case against the Defendants, [REDACTED] *H[REDACTED], M.D.* and [REDACTED] *Radiology Consultants, LLC*, for the sum of SIX MILLION DOLLARS (\$6,000,000.00) DOLLARS.

# Discussion Points

1) No stroke activation

- Unresponsive Patient
- Aphasia vs. Altered Mental Status
- Don't learn the wrong lesson here

2) Last known normal

3) Thrombolytic debate

# Case #2 – Medical Facts

- 57-year-old man
- 9:48am – patient arrives to ED for dizziness
- Patient states has had symptoms for weeks (roomed w/o stroke activation)
- MD sees patient at 12:20pm, right facial weakness, mild aphasia
- CTA results 3:18pm showing left M2 occlusion
- Neuro consults – no tPA
- Wife shows up, says he was normal that morning
- Nurse documented normal exams all morning until 12:20pm
- Mild right side weakness and aphasia

# Case #2 - Accusations

- a. Not providing proper care and treatment to Mr. [REDACTED] during his February 17, 2016 ER presentation;
- b. Not timely ordering a neurology consult for Mr. [REDACTED] during his February 17, 2016 ER presentation;
- c. Not timely ordering an MRI of the brain for Mr. [REDACTED] during his February 17, 2016 ER presentation;
- d. Not timely ordering a CTA for Mr. [REDACTED] during his February 17, 2016 ER presentation;
- e. Not timely ordering the administration of tPA for Mr. [REDACTED] for his thrombotic stroke on February 17, 2016;
- f. Not timely arranging for a thrombectomy to be performed on Mr. [REDACTED] for his thrombotic stroke on February 17, 2016;
- g. Not following S [REDACTED]'s written policies and procedures that existed on February 17, 2016 as applied to the workup, diagnosis, and treatment of ER patients with a suspected stroke;
- h. Not timely diagnosing Mr. [REDACTED] with a thrombotic stroke on February 17, 2016; and,
- i. Not timely arranging for treatment for Mr. [REDACTED]'s thrombotic stroke on February 17, 2016.

# Case #2 – Legal Outcome

## ██████ v. A██████: Ongoing Evasion Service of Process

██████ M██████ <██████@██████.com>  
To: "██████ L██████" <██████@██████.com>  
Cc: "██████ W██████" <██████>, "██████"  
<██████>, ████████ <██████>  
Bcc: ████████ <██████.com>

Thu, Jun 15, 2017 at 12:12 PM

EXHIBIT  
**B**

██████,

We have now attempted to serve Dr. A██████ with the Summons and Complaint in this case on multiple occasions, both at the hospital where he treated the patient and at his home in ████████, Tennessee.

Our process server was informed on June 7, 2017 at ████████ A██████'s house by a gentleman identifying himself as ████████ A██████'s father that ████████ A██████ was out-of-state on vacation.

Our process server made multiple additional attempts to serve ████████ A██████ yesterday, June 14, 2017, at his home, including in the evening, noting the presence of multiple vehicles in the driveway.

██████ A██████ has actual receipt of this lawsuit via certified mail, as evidenced by your appearance on his behalf and his filing of pleadings in the case.

He nevertheless continues to unlawfully evade service of process, while simultaneously arguing that the suit should be dismissed for failure to serve process.

Please immediately respond with a clear instruction on when and where ████████ A██████ will personally receive the Summons and Complaint in this case from our process server within the next 48 hours. We will then arrange to have the process server meet Dr. A██████ at the time and place of Dr. A██████'s choosing to deliver it.

Alternatively, immediately confirm that you are accepting service of process on behalf of Dr. A██████ via the summons and Complaint already in your possession.

# Case #2 – Discussion Points

- 1) Stroke activation
- 2) Last known normal
- 3) Nurse documentation
- 4) Criticizing other physicians

# Stroke Pearls

- Stuttering presentation
- TIA vs stroke
- Nurse exams
- Thrombolytics
- No stroke activation (sudden onset altered consciousness)