Navigating a Small Claims Court Appearance: Tips for Healthcare Practitioners

Small claims court is a special court in which disputes are resolved quickly and inexpensively. Pro: This translates to simple and informal rules, and swift resolution of minor conflicts. Con: Although a defendant named in a small claims suit is able to ask an attorney for advice, he is forbidden from appearing in court with an attorney. Accordingly, the small claims venue can pose some challenges for a healthcare provider who has been sued by a former patient. Namely, the provider will be required to defend himself at the court hearing.

It is in the best interest of the healthcare provider to categorize the case as medical negligence for one primary reason: Experts. A small claims plaintiff cannot criticize medical decision making of the defendant without commentary by a qualified expert in the same field. Because small claims plaintiffs are often limited in funds and unknowledgeable regarding medical malpractice law, they frequently appear in court without a medical expert. The practitioner is then able to argue the inherent nature of a medical malpractice action, along with the applicable standards of care, involve subject matter that is beyond the competency of laymen to address. Therefore, it must be addressed by a qualified expert. Landeros v. Flood (1976) 17 Cal. 3d 399, 410. The practitioner can comment on his own care, and a plaintiff should, theoretically, lose the case.

A recent trend, however, has been for a small claims plaintiff (or even the Commissioner hearing the case) to approach the matter as a breach of contract, rather than medical negligence. There, a plaintiff will argue he was falsely promised a certain result, or did not receive the outcome he expected.

A wise practitioner will be prepared for this argument and will note California Courts only recognize contracts with physicians when they promise, with specificity, a particular result. In McKinney v. Nash, (1981) 120 Cal. App. 3d 428, for example, the Court stated that to recover for breached contract in a medical malpractice case, there must be proof of an “express contract by which the physician clearly promises a particular result and the patient consents to treatment in reliance on that promise.” Moreover, normally, a doctor may only be held liable on a theory of breach of contract where he has “clearly and unequivocally warranted that a course of treatment recommended by him will, inevitably, produce a certain result.” Pulvers v. Kaiser Foundation Health Plan, Inc. (1979) 99 Cal. App. 3d 560, 565.

Thus, the practitioner should maintain claims of breach of contract in medical malpractice cases are rarely upheld unless language of specificity guaranteeing a particular result is contained within the written agreement. A signed informed consent form, which clearly outlines no guarantees made as to results, is an asset to a strong defense.

Ultimately, a practitioner who is required to appear in small claims court should take the

following steps, if applicable:

Testify about his qualifications: Discuss licensure within the state of California, board certifications, and familiarity with the standard of care in his particular field. This tenders the practitioner as an expert, qualified to testify on his own behalf;
Testify his care and treatment of the plaintiff complied with the standard of care at all times; and
Testify his care and treatment of the plaintiff did not cause plaintiff her alleged injuries.
Testify that he did not “guarantee” any results, nor did he make promises to plaintiff that were later reneged on.

If necessary, a practitioner can also provide both the Court and the Plaintiff with any of the following:

a. The jury instruction regarding the standard of care;

b. A prepared trial brief addressing medical negligence and breach of contract arguments;

c. An expert declaration on his own behalf.

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