

Medical Malpractice Settlements

In the **last thirty days**, Pat Coughlan has mediated a number of medical malpractice cases with settlements ranging from **\$2 to \$3.5 million dollars**.

The disputes that were brought to mediation involved issues such as:

- o faulty radiology reading resulting in delayed cancer diagnosis
- o inadvertant severing of tendon during “normal” foot surgery
- o wrongful death resulting from several provider errors, including incorrect procedure order; lack of instructions for post procedure care; treatment without patient history/physical exam.
- o birth injury resulting in cerebral palsy
- o spinal surgeries with errors resulting in paralysis and other permanent damage
- o failure to address surgery complications with corrective measures
- o negligent care of wheelchair patient resulting in injuries

Testimonials

*“Dear Pat:
Let me say that your handling of the mediation (both the original session, and the conclusion on ...) was superb, and we reached a result that both parties believe to be fair, under all the circumstances.”
J.W.*

*“Dear Pat:
Thank you very much for your time and for your excellent assistance as mediator in the above referenced case. I am certain that without your help, the parties would never have been able to settle this case at this stage of the litigation, even with an upcoming trial date of...of this year...Again, thank you for doing such an effective job, and I look forward to working with you on other cases in the future.” P.M.*

*“Dear Devon:
We very much appreciate your attention to detail and thoughtfulness...”
D.R.*

*“Dear Devon:
Good job in settling a case I never thought would settle.”
W.K.*

PRSRT STD
U.S. Postage
PAID
Portland, ME
Permit No. 477

CONFLICT SOLUTIONS

Professionals in Alternative Dispute Resolution
112 Plains Road
Raymond, Maine 04071

Address Service Requested

Summer 2008 Newsletter

World Class



Mediation

1540 Star Pointe Lane
Naples, Florida 34112
Tel/Fax: 239-417-5969
U.S. 800-762-5582

1880 N. Congress Avenue, Suite 214
Boynton Beach, Florida 33426
Tel: 561-308-9494

112 Plains Road
Raymond, Maine 04071
Tel: 207-655-6677
Fax: 207-655-6699
U.S. 800-762-5582

Website: www.ConflictSolutionsInc.com
Email: pat@conflictsolutionsinc.com

Plaintiffs' Odds Dictate Settlement Rather Than Trial

(New York Times, August 8, 2008)

NOTE to victims of accidents, medical malpractice, broken contracts and the like: When you sue, make a deal.

That is the clear lesson of a soon-to-be-released study of civil lawsuits that has found that most of the plaintiffs who decided to pass up a settlement offer and went to trial ended up getting less money than if they had taken that offer.

“The lesson for plaintiffs is, in the vast majority of cases, they are perceiving the defendant’s offer to be half a loaf when in fact it is an entire loaf or more,” said Randall L. Kiser, a co-author of the study and principal analyst at DecisionSet, a consulting firm that advises clients on litigation decisions.

Defendants made the wrong decision by proceeding to trial far less often, in 24 percent of cases, according to the study; plaintiffs were wrong in 61 percent of cases. In just 15 percent of cases, both sides were right to go to trial — meaning that the defendant paid less than the plaintiff had wanted but the plaintiff got more than the defendant had offered.

The vast majority of cases do settle — from 80 to 92 percent by some estimates, Kiser said — and there is no way to know whether either

side in those cases could have done better at trial. But the findings, based on a study of 2,054 cases that went to trial from 2002 to 2005, raise provocative questions about how lawyers and clients make decisions, the quality of legal advice and lawyers’ motives.

Critics of the profession have long argued that lawyers have an incentive to try to collect fees that are contingent on winning in court or simply to bill for all the hours required to prepare and go to trial.

“What I would want them to look at was whether or not the lawyers had a strong financial incentive to go to trial,” said Cristina C. Arguedas, a criminal defense lawyer in Berkeley, Calif., when told of the study. “I’m not suggesting the answer, because I don’t know, but that would be my question.”

The study, which is to be published in the September issue of the Journal of Empirical Legal Studies, does not directly answer Arguedas, but it does find that the mistakes were made more often in cases in which lawyers are typically paid a share of whatever is won at trial.

On average, getting it wrong cost plaintiffs about \$43,000. For defendants, who were less often wrong about going to trial, the cost was much greater: \$1.1 million.

The findings suggest that lawyers may not be explaining the odds to their clients — or that clients are not listening to their lawyers.

Conflict Solutions Opens New South Florida Mediation Center

Conflict Solutions is pleased to announce the opening of its new South Florida Mediation Center. The Center is located in the prestigious new Renaissance Commons development in Boynton Beach, Florida. The Class A office space is convenient to I-95 and only 15 minutes from downtown West Palm Beach and Boca Raton. Downtown Ft. Lauderdale is only 30 minutes away.

The Center offers multiple conference rooms in a setting designed to facilitate productive settlement discussion. The first floor of the complex contains several appealing restaurant choices, for the convenience of our clients during breaks in a mediation session.

While our mediators are happy to travel to the offices of counsel to conduct mediation, we believe our South Florida clients will appreciate the availability of a convenient, neutral site for mediation.

While Devon Coughlan will be based out of our new South Florida location, he will continue to handle cases on a national basis. Pat Coughlan, who also has a national practice, will also be available to take cases at our new location.



Conflict Solutions
1880 N. Congress Ave., Suite 214
Boynton Beach, FL 33426
Tel: 561-308-9494

Please refer to our website, www.conflictsolutionsinc.com, for complete information and directions to the new Center.