



Recent Developments in Legal Medicine

Notable State Law Cases

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MAKING IT HAPPEN.

Fahlen v. Sutter Central Valley Hospitals

58 Cal. 4th 655 (2014)

- A physician claiming that her/his privileges were terminated in retaliation for whistleblowing to safeguard patient care and safety does not have to seek and obtain a writ of mandate before suing the hospital

MAKING IT HAPPEN.

Estate of McCall v. United States

2014 Fla. LEXIS 933 (2014)

- Answering a certified question, Florida Supreme Court rejects notion of “malpractice insurance crisis” and rules that, in wrongful death cases, the caps on non-economic damages enacted in 2003 violate the equal protection provision of the Florida Constitution

MAKING IT HAPPEN.

Saunders v. Dickens

2014 Fla. LEXIS 2153 (2014)

- A physician cannot prove lack of causation based on testimony from a subsequent treating physician that the subsequent treating physician would not have altered the treatment he or she provided, even if the defendant physician had met the alleged standard of care.

MAKING IT HAPPEN.

Manor Care, Inc. v. Douglas

763 S.E. 2d 73 (2014)

- West Virginia Supreme Court reduced a \$90 million jury award against a nursing home to \$32 million, stating reduced amount of punitive damages both “passes constitutional muster” and punishes “reprehensible” decline of 87 year old woman into “dehydrated, malnourished, bedridden and barely responsive” state after just 19 days.

MAKING IT HAPPEN.

Tibbs v. Bunnell

2014 Ky. LEXIS 333 (2014)

- Hospital's incident report following a patient's death was not protected as patient safety work product under the Patient Safety and Quality Improvement Act of 2005 because merely placing the report into a patient safety evaluation system does not establish the patient safety work product privilege.

MAKING IT HAPPEN.

*Roe v. Children's Hospital
Medical Center*

469 Mass. 710 (2014)

- A MA hospital owed no duty of care to future patients of a physician who left hospital's employment and resumed work with a new employer in NC.

MAKING IT HAPPEN.

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*Roe v. Children's Hospital
Medical Center*

469 Mass. 710 (2014)

- No allegation that doctor left MA hospital because of complaints; court refused to expose hospitals to potentially limitless class of unknown parties.

MAKING IT HAPPEN.

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