

A TEACHING RESOURCE FOR PSYCHIATRY RESIDENTS

VIEW FROM THE JURY BOX:

Clark v. Stover

A Psychiatric Malpractice Mock Trial

MOCK TRIAL COMMENTARY

DIRECT AND CROSS-EXAMINATION OF DR. JOANNA STOVER

Attorney Hammer led with a motion for directed verdict. This motion asks the court to rule that no reasonable jury could reach a decision for the non-moving party. It is made after the other party has presented its case and can concern the whole trial or individual issues.

There were many objections by the Attorneys – objections as to the form of questions and to questions about other suicides. Dr. Stover answered a question after an objection was sustained and offered an answer with no question before her. There were a number of motions to strike, an interesting motion in that it calls for the jury to “unhear” things it has heard. There was also discussion of whether an objection raised would be handled better on re-direct.

Many of the objections were related to Dr. Stover’s refusal to be led. On cross examination, witness can be asked leading questions – that is, “yes” or “no” questions. This essentially allows the attorney to control the story that the jury hears.

The Defense showed that Brook Hospital procedures were different than procedures at Downtown General. (This actually is the basis for many lawsuits.) It underscored that Dr. Stover did not get information on non-compliance or Mr. Clark’s intentions regarding treatment.

The Plaintiff kept up its criticism of Dr. Stover for failing to obtain past treatment records. Plaintiff also attempted to impeach Dr. Stover with her inconsistent testimony at deposition (that this was “probably” a suicide attempt). Plaintiff also underscored that all of Mr. Clark’s symptoms persisted, plus he was still on 15 minute observation when he was discharged.

