

A TEACHING RESOURCE FOR PSYCHIATRY RESIDENTS

VIEW FROM THE JURY BOX:

Clark v. Stover

A Psychiatric Malpractice Mock Trial

THE LITIGATION PROCESS

APPEALS

After the jury reaches a verdict, the trial court judge will render a judgment based upon that verdict. At this point, either party (but typically the party against whom the lawsuit has been decided) may ask an appellate court to review the proceedings to determine whether the trial court committed an error that adversely affected the outcome of the case. An appeal is not a retrying of the case. A party may not appeal just because it disagrees with, or is disappointed by, the outcome of the trial or believes it to be unfair or unjustified.

In an appeal the appellant (the party prosecuting the appeal) must specify what errors it believes the trial court made that negatively impacted the verdict. Examples of this might be an assertion that the trial court erred in allowing certain testimony to be heard or that certain evidence should not have been admitted. The appellate court then reviews the trial court record to determine whether the alleged errors did in fact occur and whether the errors may have prejudiced the outcome of the trial. If the appellate court finds prejudicial error, it can vacate the trial court's ruling and order a new trial or, as a matter of law, order the entry of a different judgment.

No trial is perfect; errors will be made by all parties involved. An appeal only comes into play if the error(s) made were likely to have had a significant influence on the outcome of the trial. As appeals are very costly and time-consuming, parties must carefully consider the potential for success on appeal before undertaking this action.

FREQUENTLY ASKED QUESTION

Is there any penalty for filing an appeal that ultimately fails?

While there is no separate penalty, depending upon state law, it may impact any report to the National Practitioner Data Bank. When a defendant has had monetary damages awarded against him appeals the verdict, should that appeal fail, the trial court may award the plaintiff interest that accrued on the verdict amount between the time of the rendering of the verdict and the actual payment to the plaintiff. Depending on state law, that amount may be classified as expenses or it may be considered indemnity and added to the total reported to the NPDB.

