

# A TEACHING RESOURCE FOR PSYCHIATRY RESIDENTS

VIEW FROM THE JURY BOX:

## Clark v. Stover

*A Psychiatric Malpractice Mock Trial*

### THE LITIGATION PROCESS

#### **DISCOVERY**

Discovery is the pre-trial process by which the plaintiff and defendant obtain facts and information about the case from each other and conduct an investigation in order to fully ascertain the facts and to further develop the legal theories involved in the case.

Interrogatories are one of the tools of discovery. Interrogatories are written questions from one party to another party. Answers to interrogatories are answered and signed by the party to whom they are directed and are based on all the information that is known about the questions at that point in time. The parties' attorneys may assist in preparing the answers to interrogatories and can object to improper interrogatories.

It is important for the answers be accurate and complete. The court can impose sanctions if a party purposely withholds or conceals information, or gives misleading and incomplete answers. Interrogatories must be answered and served within certain time periods.

#### **RISK MANAGEMENT TIPS**

**Do provide** specific information about the treatment of the patient and forward copies of the legal documentation and treatment records requested by your defense attorney. Providing your professional liability insurance company representative and defense attorney with requested documentation and other information about the patient's treatment will assist in the development of your defense by allowing experienced individuals to analyze the information and obtain expert opinions. Your insurance policy usually has a provision that requires your cooperation in defending a lawsuit.

**Do be honest and candid** with your defense attorney and claims representative. Attempts to conceal information, even if you think it is unfavorable to your case, seldom remain unexposed. Moreover, dishonesty can make a case indefensible. Honesty and candidness allow your defense attorney to review the facts in their entirety and prepare a defense.

