

Litigation in the 21st Century

by Lee Michaels

As we begin the Twenty-first century, the representation of plaintiffs in injury and wrongful death civil cases has become very difficult. Studies show that there is a strong bias against plaintiffs, trial lawyers, and tort litigation in the general pool of people serving on American juries. Appellate court decisions have followed conservative trends. The governor and many state legislators follow conservative, anti-plaintiff, agendas.

Liability insurers, aware of, and indeed a major public relations source of, this hostile jury environment, have adopted defense strategies previously not seen. As the liability insurers follow a national strategy of attrition, claims that, until recently, could be reasonably and efficiently settled, must often now be litigated. An increasing number of insurers routinely insist that smaller claims be tried to a verdict. Large claims are zealously resisted, even after a significant plaintiff's jury verdict. Litigation has always been expensive. In the face of attrition and "no pay" strategies, it has become more expensive.

We sincerely believe that, in the present and foreseeable civil litigation environment, the general practitioner, with limited or no experience and with limited resources, is ill equipped to handle injury and death claims, and may experience a legal malpractice exposure by entering the claims and litigation arena. We therefore sincerely believe that it is in the best interests of the general practitioner to engage experienced trial counsel, who are best able to deal with the current claims and litigation problems, to assist them, at an early stage, in the handling of their clients' claims. We would like to be considered. However, even if the general practitioner does not wish to consider us, we recommend that they seek another experienced firm.