

## TRIAL RESULTS



Decades of strategic case development and trial experience.

### ARBITRATOR REJECTS ACTOR'S SPINAL INFECTION CLAIM

2.12.18

WSHB Remains Undefeated in Medical Malpractice Litigation

Following a four-day Binding Medical Malpractice Arbitration in Downtown Los Angeles, Los Angeles attorneys, Brian Hoffman and Michelle Birtja successfully defended a Medical Negligence and Loss of Consortium claim brought by Claimants against our client, a Surgery Center and co-defendant, a Pain Management Specialist. The Arbitrator issued a decision rejecting Claimants request for the application of the Doctrine of *Res Ipsa Loquitor* and found no evidence of a breach in the standard of care on the part of the Respondents.

Claimants alleged that Respondents negligently performed 4 pain management spinal injections during which a rare bacterial pathogen was allegedly introduced to the L4-5 disc causing a massive erosive infection. Ultimately, following the discovery of the infection, the plaintiff underwent 4 surgeries on his spine due to the loss of the T3-T5 vertebral bodies. The surgeries left plaintiff fused from the L3 to the pelvis, and completely disabled. The claimant was a marginal celebrity, having been a pro wrestler associated with WWE for 7 years and then transitioning to acting where he was seen in a variety of commercials and in a supporting role in the major motion picture, *My Super Ex-Girlfriend*. Claimants claimed damages in the amount of \$4.5 million.

The Respondents were able to mount a defense showing, through expert testimony, that although this was an exceedingly rare pathogen, infections are known potential complication of any procedure, and that they can occur in the absence of negligence. Further, it was successfully argued that to a reasonable degree of medical probability, the rare bacteria was seeded during a prior discectomy 18 months earlier, despite the testimony of Claimant's treating surgeon, who testified as an expert at Arbitration on behalf Claimants.

"This is another important win for both our client and the firm," said Brian, who co-chairs the medical malpractice and elder abuse department at WSHB. "Our surgery center client has facilities around the country. They were bold, unwavering, and

#### PROFESSIONALS

Michelle A. Birtja

Brian L. Hoffman

#### RELATED SERVICES

Medical Malpractice and Healthcare Law

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unafraid, even in the face of high sympathy value and huge damages, to take this case to verdict.”

Brian has successfully tried and arbitrated more than 75 cases to verdict. He defends individuals, insurers and institutions facing claims of medical malpractice, elder abuse, negligence, and fraud. WSHB clients include nationwide professional liability insurers, hospitals, physicians and allied healthcare providers.

This defense verdict continues the undefeated record of WSHB in the medical malpractice area.