



MN State Bar Association Mock Trial Competition 2022-2023 Case Presentation

PRESENTED BY:

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Competitive Breaststroke Swimming



Brief Review of the Law: Pleadings



- Civil Complaint and Answer – Plaintiff v. Defendant
- Pretrial Order – court ruling on pretrial issues
 - Treat this like a court order for what to do – and not do – at trial
- Stipulations – deemed true for purposes of case (and argument)
- Jury Instructions – would be given by judge after close of case
 - More on these at the end

Brief Review of the Law: Medical Malpractice, AKA Medical Negligence

- Negligence is the failure to use reasonable care under the circumstances.
- Plaintiff must prove “by a preponderance of evidence” four elements of negligence:
 - (1) the existence of a legal duty, (✓)
 - (2) a breach of that duty,
 - (3) proximate cause,
 - (4) injury (✓)
- Medical Negligence: Reasonable care by a doctor is care that meets an accepted standard of care that a doctor who is in a similar practice in a similar community would use or follow under similar circumstances.
- If the doctor provided reasonable care = no breach of duty.
- If the doctor did not provide reasonable care, did that cause the injury?

ACL Tear



Brief Overview of the Case



- ☆ Jamie Morton was a star swimmer at Lake Superior High School. Jamie’s outstanding skills in the pool resulted in a full scholarship to the University of Minnesota.
- ☆ Jamie dominated the pool, even in college. Still only a freshman, Jamie won 30 of the first 36 events.
- ☆ On January 29, 2021. Jamie was swimming in the final meet before the Big Ten conference meet. Jamie felt a “pop” in their left knee at the start of the fourth lap and felt excruciating pain. Jamie quickly sought medical attention and was eventually referred to Dr. Ardi Ramidus.
- ☆ Dr. Ramidus ordered an MRI and concluded that Jamie’s left anterior cruciate ligament (ACL) was torn. Dr. Ramidus performed ACL reconstruction surgery, and Jamie began the rehabilitation process. On May 5, 2021—after Jamie had returned to the pool—Jamie again felt the pain in their left knee. Jamie was quickly diagnosed with a second ACL tear, ending a promising swimming career and resulting in the loss of scholarships.
- ☆ Jamie filed a lawsuit against Dr. Ramidus, alleging that Dr. Ramidus was negligent in two ways. Dr. Ramidus claims there was no negligence; Jamie’s own behavior caused the second ACL tear.

Plaintiff: Jamie Morton (Witness)



- a. Swimmer since a little kid
- b. Swam the 100-yard breaststroke, the 200-yard medley 26 relay and 200-yard individual medley each meet.
- c. Got a full ride athletic scholarship to the U of M for academic and athletic achievement
- d. States elected co-captain of swim team in freshman year because they knew so many of the swimmers and because just really love swimming, being in the pool, talking stroke technique, encouraging teammates, bringing everyone's spirits up.
- e. January 29, 2021 - last meet before the Big Ten Championships. Reached the end of the pool on the third lap, tucked into flip, feet hit the wall to shoot forward down the lane, heard and felt a pop; felt immediate, excruciating pain in left knee.
- f. Went to the University Health Care Clinic that evening, the doctor took an X-ray and said had Breastroker's Knee (knew that wasn't it).

Plaintiff Jamie Morton, Con't.



- g. After a couple of days went to Dr. Ramidus who ordered an MRI, which showed a torn ACL that could only be fixed by surgery.
- h. Physical therapy started 2 days after surgery (didn't love the PT). In late March, got in the pool. Didn't do anything with legs, just let them float.
- i. About two weeks later in early May, in the middle of a club workout, felt horrible pain again. Got in to see Dr. Ramidus the next day, had another MRI that showed the ACL was torn again. Had a second surgery with a different surgeon in June.
- j. States that, as a result of Dr. Ramidus' surgery, knee will never fully recover, and will never be able to swim as an elite athlete again.

Defense Cross of Jamie Morton

- This is the Plaintiff - remember that when crossing the witness
 - Opportunity to paint their whole case in negative light.
 - Allowed to ask about “rational inferences” – subject to objection and trial judge’s ruling.
- Think of what you need from their affidavit
 - As Defense, trying to poke holes in the Plaintiff’s claims of negligence.
- Jamie is one of few witnesses who can really pull the different pieces together – capitalize on that.
 - Injury, Surgery, Rehab, Recovery, Second Injury.

Tip:

➤ Even though you might think they’re a lyin’, cheatin’, Why-I-Oughta,’ just lookin’ for a payday Plaintiff . . .

They’re still a person who suffered a serious injury

And the judge and jury won’t forget that

Dr. Madison J. Adams, Plaintiff's Expert Witness



- A. ACL Knee Surgeon and an Orthopedic Surgery Expert Witness, 3 focusing on ACL knee surgeries.
- B. For a detailed listing of my accomplishments, please see Curriculum Vitae Exhibit
- C. Retained by Plaintiff's Counsel as an expert witness in the matter of Jamie Morton v. Ardi Ramidus, MD. I charge \$15,000
- D. The initial diagnosis of Breaststroke Knee by a U of M physician was clearly incorrect. In spite of the lack of competent medical treatment at this stage, would not have caused permanent damage given proper ACL reconstruction surgery, proper rehabilitation, and some time to heal.
- E. States that Dr. Ramidus's medical treatment involved the following improper actions and results:
 - 1. Dr. Ramidus used an allograft (tissue from a cadaver) instead of an autograft (see Exhibit 3)
 - 2. Dr. Ramidus implanted the graft in the wrong position, which led to less stability of the knee
 - 3. Failure to direct the course of physical therapy most likely led to physical therapy that may not have been tailored to Jamie's needs.
 - 4. Failure to follow up with Jamie in a timely manner led to potential irreparable damage.

Defense Cross of Dr. Madison J. Adams

- Be deliberate with cross-examination material
 - Use exhibits to your advantage
 - Track which exhibits have been introduced
- By definition, most of Dr. Adams's testimony will be second-guessing what someone else did.
 - A mini trial-within-a-trial.
 - In real life, this cross would take the most time to prepare.
- Signpost!
 - And Keep in mind the time!

- **Tip:** This is a key witness for the Plaintiff
 - In “medmal” cases, oftentimes the facts boil down to which expert the jury believes.
 - “Battle of the experts”

Coach Kris Peterson, Plaintiff Witness



- a. Currently working work as one of the program's assistant coaches due to the ongoing investigation into them after Jamie's injury.
- b. Sights were set on qualifying for the 2004 Summer Olympics. However, in August 2002, tore rotator cuff, missed the qualifying tournament for the Olympics, and started looking for a job.
- c. 2018: got the head coaching job at the University of Minnesota.
- d. Jamie was first high school recruit as head coach at the U. Convinced athletic department to give Jamie a full-ride scholarship.
- e. Came to trust Jamie so much that I gave Jamie a key to pool so Jamie could put in extra reps, as needed, before and after practice.
- f. Jamie promised to follow the physical therapist's plan "no exceptions," and wouldn't rush into lower-body exercises.
- g. Never saw Jamie put in leg work at practice during those six weeks. Sometimes Jamie would be at the pool before I arrived or after I left. But again, I personally only ever saw Jamie doing upper body exercises.

Defense Cross of Kris Peterson

Tip: When crossing fact witnesses, always remember what, exactly, you want from them.

It's easy to get drawn in by savvy attorneys objecting to your questions.

It's even *easier* to get drawn in by savvy character witnesses!

- Think of how “Coach P.” fits within the larger picture
 - Coach P. personally vouched for Jamie
 - What do they have on the line here at trial?
- At the end of trial, you can argue reasonable inferences from the evidence you entered into the record.
- Keep that in mind – because this witness can bolster or challenge testimony from other witnesses.



Defendant, Dr. Ardi Ramidus

- Board-Certified, published, Orthopedic Surgeon
- Diagnosed and performed both surgeries on Jamie's knee.
- Monitored/supervised recovery.
- Good teams will build up credibility
 - Great teams will also Humanize, allow to explain.
- Keep in mind the factors of negligence
 - Defendant does not need to “prove” anything per se, but when the legal standard is preponderance of evidence, you have to show the jury why your client performed reasonable care, and why the injury isn't traceable back to the surgery.
- Turns out you got a quirky client who wants to be his or her own expert. Neat.
 - Develop a strategy for that.

Tip: The medical jargon will be dense at first, but remember that at its core, the wordy terms describe “stuff” and “things” anyone can understand.

Plaintiff's Cross of Dr. Ramidus

- How much experience does Dr. Ramidus have with treating this type of injury?
- There is a saying that a doctor who treats themselves has a fool for a patient. Were they the best choice for an expert opinion?
- Did Dr. Ramidus go outside the parameters of acceptable medical treatment? If so, was it warranted?

Tip: Dr. Ramidus' reputation and future earning power are at stake.



Robin Stoll, Rehab Therapist

- Board-Certified physical therapist
- Works at Ramidus & Associates
- Can explain in great detail how the rehabilitation process should have played out. . .
 - And what they actually saw from Jamie's recovery.
 - Had periodical appointments with the Plaintiff. You can use this witness to build a timeline.
 - Use of Exhibits will be beneficial.
 - This witness is critical for one of the elements of Medical Negligence
 - Pretrial order sets out the scope of their testimony
 - When you have a "he said/she said" situation, give the trier of fact a reason (or argument) to trust your side.
 - It always boils down to credibility.

Plaintiff's Cross of Robin Stoll

- ❑ Should Stoll have questioned Ramidus' treatment plan more, especially if it appeared that Jamie was noncompliant?
- ❑ Did Stoll order any additional tests on Jamie as PT progressed?
- ❑ Is Stoll still being considered for a position at Ramidus' clinic?

Tip: Jamie's physical therapy was critical for their recovery.

- Did the physical therapist exercise independent judgement? Should they have?



Val Rivera, Defense Witness

Tip: Val is the only peer from Jamie's swim team to testify, and Val will have to go back and face their peers on the swim team as well as the coaches.

How to make Val into a believable, friendly person who only had Jamie's best interests at heart?

- This is someone who connects the dots
 - Team member on the U of M swim team
 - Has personal knowledge about swimming and its demands on the human body
 - First-hand witness to Plaintiff's injury – and recovery
- Remember, fact witnesses can always talk about what they saw, heard, and witnessed, and they can generally explain things they know from experience.
 - But they can't speculate. Dance that fine line to make Val a fun, engaging witness.

Plaintiff's Cross of Val Rivera

- What kind of witness/person/team player is Val and how can these be used to your advantage?
- Question Val's recollection of events
- Is Val a believable witness?

Tip: consider what this (and every other witness) has to gain and/or lose in giving their testimony



Exhibits



Exhibits 1, 11 Curriculum Vitae (“CVs”)

Exhibits 2, 7, 9, 10 Treatment records maintained by Ramidus & Associates for Jamie Morton

Exhibits 3, 8 Medical Literature

Exhibits 4, 5, 6 Pictures and demonstratives of the medical issues

Jury Instruction Guidelines – the JIGs



- Jury Instructions – are given by the judge to the jury after close of case
- Importance of the JiGs: these are the questions that jurors answer to determine the outcome
- Guidelines for evaluating testimony: you must decide what testimony to believe and how much weight to give it. Here are some guidelines (not the whole list)
 - Will a witness gain or lose if this case is decided a certain way?
 - What is the witness's relationship to the parties?
 - How did a witness learn the facts? How did s/he/they remember and tell the facts?
 - What was their manner? Did the witness seem honest and sincere?
 - Was the witness frank and direct?
 - Is the testimony reasonable compared with other evidence?
- The two questions you will be presented are:
 1. Was Ardi Ramidus negligent in their care and treatment of Jamie Morton? *Yes or No?*
 2. If your answer to Question 1 was “Yes,” then answer this question: Was Ardi Ramidus’s negligence in providing that care and treatment a direct cause of harm or injury to Jamie Morton? *Yes or No?*

Helpful Hints: Presentation

- ❖ Reading from Notes
- ❖ Moving Around – Using Hands, Moving Across the Screen
- ❖ Look Like You're Listening to the Witnesses' Responses
- ❖ Taking Notes – Shows You're Listening, Preparing Responses



Questions?

Please direct **Case Clarification Questions** to Kim Basting at:

Answers will be published to all participants

Check the Mock Trial Website for additional information and resources

Thank you for participating in Mock Trial!
Good Luck!