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A Complimentary Publication

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## Animation: A Powerful and Persuasive Demonstrative Tool

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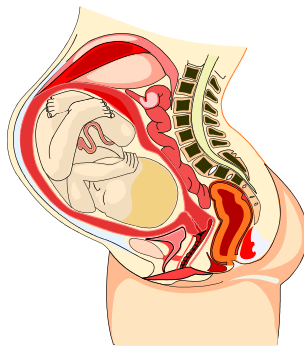
Visual learning represents two-thirds of our society according to published studies on the way the average person comprehends information. The advent of super computers, high definition graphics and lower cost hardware systems has made visual technology a reasonable solution to demonstrate your side of the story. The industry of medical malpractice has started to adopt this concept for one simple reason; the average person doesn't understand complex medicine and traditional demonstrative tools are at times difficult and possibly confusing. Additionally, when the jury, judge or mediator doesn't comprehend the medicine, the expert(s) and attorney may not have reached the point where the lay person now "gets it". The ultimate goal in the industry of producing demonstrative tools is to develop a product where the layperson (with the help of counsel) "gets it" and a favorable decision is rendered.

Medical animation technology is nothing new to our society. Turn on the TV tonight and count how many pharmaceutical companies have adopted it to show how their respective product works in the body. Additionally, medical animation has from time to time been used at trial in the past. "Adam" was one of the first, however it had limitations. Animation technology today has become very flexible and cost effective allowing the attorney and expert to collaborate on a description of what they are looking to visually demonstrate to support a theory. In return, an experienced animation company will develop a product in which the layperson is first educated on the "typical anatomy" and function of relevant organs to the case. By doing so, the regular person has a foundation to build upon as the case begins to become more specific to the events. When the first

goal has been accomplished, a case specific segment is created. During this segment, the animation will visually demonstrate "what happened" based on the medical records and the testimony of the expert. In an effort to drive home the effectiveness of the animation a better technology will have the ability to incorporate video, film, virtual instruments and monitoring devices.

We understand the upside of using animation, however there are several down sides as well. The most common failure experienced is in planning. Unless the requesting party fully understands the rules of the game, problems will begin to happen. Another area where problems have occurred is when the attorney creates an animation without the help of the testifying expert who will speak to what's on the screen.

Unless the animation is in part created by the expert, don't assume it's something they will use. Lastly, the deployment of the technology is a consideration. Always work within the abilities of the firm to present media at trial. If the firm has limited resources acquiring a trial consultant is strongly recommended. Experiencing hardware failure and looking unprepared is sometimes fatal when attempting to add consistency to your story.



Animation and electronic presentations are slowly becoming more prevalent at trial and settlement. The costs of these technologies are coming down considerably while the capabilities are increasing exponentially. The time is now to consider how you plan on meeting the visual expectations of your target audience. Medical animation is bridging this gap for both plaintiff and defense firms where the medicine is complex and the damages are considerable.

For more information about medical animation technology please visit [www.thecarlsengroup.net](http://www.thecarlsengroup.net) or contact Ken Carlsen at (410) 703-8888 or email [ken@thecarlsengroup.net](mailto:ken@thecarlsengroup.net) ■

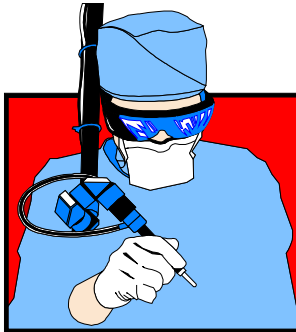
## YOUR LNC'S ROLE IN PRODUCT LIABILITY CASES

There are difficult questions to ask in any medical product liability cases and your Legal Nurse Consultant (LNC) is the best professional to get the answers needed to make your case.

Product liability is an area which requires extensive research. When looking at a potential product liability case, three basic areas of questions arise.

The first deals with the **product performance** itself:

- Is the product or drug truly at fault?
- Does the research substantiate this position?
- Are there recorded cases of similar product failures, medication reactions, etc.?



The next area deals with the **training and education involved with using the product**. Such questions as :

- Was the physician sufficiently informed by the product manufacturer's representative?
- How and where did they learn to use this equipment? (An example of this would be a new instrument for a certain surgical procedure)
- Was there sufficient in-service education, if this product is used by hospital personnel?

The other broad base of questions arise out of the circumstances under which it was used:

- Is this a physician's error? Why or why not?
- Is this a nurse's error? Why or why not?
- Is this a "float" nurse situation where, as an example for staffing reasons, a pediatric nurse is "floated" to an intensive care unit? (If the nurse is floated she is expected to perform as a reasonable and prudent nurse in the area in which she is working.)

As your LNC, we are in a perfect position to help you answer these and many other medical questions. We can assist in evaluating the strengths and weaknesses of your case based on our years of experience in the medical profession. Knowledge of the reality of practice in daily healthcare is a strong ally in determining the merit of, and strategy for, your case.

As a final note, great care must be taken when planning a suit against a manufacturer to avoid a cross-claim suit from their attorneys. If it can be proven the product was functioning perfectly, a cross-claim suit could be brought against the hospital, physician or nurse as would fit the scenario. Specifically, whoever misused the product. ♦

**Quotable:** *"You see things and you say "Why?" But I dream things that never were, and I say "Why not?" ~ George Bernard Shaw*

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