



Stewart v. Gibson, 508 F.3d 225 (5th Cir. 2007)

Topics Covered: Abusive Litigation Against Physicians

Outcome: Very Favorable

Issue

The issue in this case is whether an award of attorneys' fees to a physician mistakenly sued in a medical malpractice case should be upheld.

AMA Interest

The AMA opposes frivolous or otherwise wrongful malpractice suits against physicians.

Case Summary

This case concerned a counter-suit by a Mississippi physician, Dr. Lawrence Stewart, against a medical malpractice plaintiff's attorney who wrongly named the physician as a defendant. Essentially, the wrong Dr. Stewart was sued.

When Dr. Stewart's attorney pointed out the error to the plaintiff's attorney, the attorney still refused to dismiss Dr. Stewart from the case. Consequently, Dr. Stewart had to go through the trouble and expense of obtaining a judgment in his favor. Because of the plaintiff's attorney's refusal to correct his error, he was held liable in the trial court for improper pleadings under 28 U.S.C. §1927. Dr. Stewart obtained a judgment against the attorney for \$6,093.26.

The attorney appealed to the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit affirmed the award against the attorney but reduced the amount of the judgment to \$4,488.26.

Litigation Center Involvement

The Litigation Center and the Mississippi State Medical Association each contributed to Dr. Stewart to help defray his litigation expenses.