



# Softening the Blow: Defending Against the Rise in Mega Verdicts

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# Jurors Are Angry

- ▶ Politics
- ▶ Social constructs
- ▶ Economy
- ▶ Sports

# Social Inflation

- ▶ Mega verdicts get attention; defense verdicts do not.
- ▶ Value of money no longer understood in the same way.
  - ▶ Amounts thrown around in the press.
  - ▶ We now speak of billionaires the way we used to speak of millionaires.

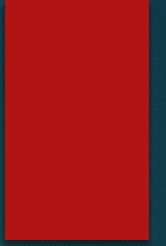
# Mega Cases Are Now Often Financed

- ▶ Plaintiff lawyers now do not carry the same risk.
- ▶ We need to take discovery; that may be an expensive fight.
- ▶ This will make cases harder to settle; ROI is expected.

# Media and Social Media Allow Plaintiffs to Create Bias, Sympathy and Prejudice

- ▶ These fan the flames of exorbitant dollars.

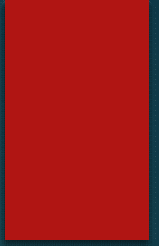
# Huge Life-Care Plans and Inflated Pain and Suffering Numbers



# Focus on the Medicine – Get it Right!

- ▶ One of the best assets we have.
- ▶ Get the accurate picture; not just a defensive picture.
- ▶ Ask the hard questions.

Focus on the Law –  
Know All the Legal Constraints





# Avoid Extraneous Issues

- ▶ EMR issues
- ▶ Discovery disputes
- ▶ Spoliation

# Use the Language the Law Gives to You

- ▶ The charge
- ▶ Definitions
- ▶ Regular language – “compensate,” “fairly” and “reasonably”

# These are Different Times for Defendants

- ▶ Accept responsibility.
- ▶ Responsibility does not equal liability.
- ▶ Give a number; use it, defend it, and repeat it.
- ▶ Make the case about the good you do.
- ▶ From the beginning – underwriting, claims, defendants, counsel – all need to focus on getting it right.
- ▶ Trials are about credibility – build credibility.