Win without boasting. Lose without excuse.

After a two-day hearing in U.S. District Court in Burlington, Vermont, Judge William Sessions, III, entered a consent orderinvalidating all claims at issue in Dr Samuel Pallin’s patent infringement claim against ophthalmologist, Jack A. Singer MD. As ASCRS President Charles Kelman MD, stated, “This was the right legal result and the right result for society.” Yes, society won, but in truth, the whole legal exercise was absurd from the onset, and the only real winners were the attorneys. No doubt they headed for the bank while laughing at these foolish doctors. Although some might say it is unfair, hereafter the name of Samuel Pallin MD will always be recalled as a symbol of arrogant culpability. Sad to relate, although the AMA has declared such procedure patents unethical, several others have been issued in recent years.

You must decide whether to be the bird or the statue.

In Utah, a research team set out to establish the cost savings of a limited drug formulary used by six HMOs, including 13,000 patient studies. No practicing doctor would be shocked, but the research team was surprised when they found that a limited formulary actually increased the cost of pharmaceuticals to the HMOs when compared to an open formulary. Example—ineffective brand X had to be used because the doctor wasn’t allowed to prescribe the more expensive brand A. Too often, the patient was obliged to make extra visits to the doctor, the pharmacy ultimately had to use the more expensive drug, plus the doctor lost clinical time while begging for permission to use appropriate medication. This HMO study demonstrated another example of why bean counters should not have been issued in recent years.

I learned a lot from him by doing the opposite.

A plastic surgeon performed a blepharoplasty without apparent complications. The patient was able to close her eyes after the surgery, and one week later was referred to an ophthalmologist who prescribed lubricating ointment. When a diagnosis of lagophthalmos was made, she brought a malpractice suit against the surgeon and a jury awarded her $540,000. However, the decision was reversed by the appellate court because the patient sought damages for “mental anguish.” Therefore, the court ruled that the surgeon should have been allowed to depose the patient’s psychiatrist and introduce this evidence at trial. He did not shrink from his duty.

The media: Remember, these people are not your friends!

Not fair! The Honolulu newspapers ran a story about the Hawaii Board of Medical Examiner’s failure to punish errant doctors, suggesting that the Board was remiss and should get busy and crack down on black-hat physicians. However, the BME has no investigative arm (as do many other states), but must depend on referrals from RICO, the Regulated Industries Complaints Office, a branch of the Department of Consumer Affairs. It is RICO that investigates grievances, and RICO sends appropriate cases to the BME. Incidentally, any complaint made to the Hawaii Medical Association against a physician will be evaluated for reply only if the doctor is an HMA member (a big time member benefit). Actions against nonmembers must be sent directly to RICO.

Assuredly, this is dull stuff, but vital.

Computer-generated problems are an increasing medical expense. In 1993, more than 41,000 workers suffered from carpal tunnel syndrome requiring time off from work, and costing insurers $50 million in claims. At least 20% (and probably more) of these came from typing. The areas of complaint are the eyes, wrists, shoulders, and neck. Ergonomic medical experts recommend the following: (1) to avoid eyestrain, place the computer screen 26 inches from the eye, center it four inches below the eye and, if glasses are necessary, use a full lens not a multifocal. (2) Do not use wrist rests or splints which put pressure on nerves and can lead to muscle atrophy. (3) The keyboard should slope 12 degrees away from the typist with the back lower than the front, and should be situated one to two inches above the legs. This allows for better hand position, reduces shoulder shrugging, neck tension, and elbow problems. (4) Keep the mouse platform 20% higher than the elbow, in front (not to the side) of the body, and do not squeeze the mouse.

A doctor feels about lawyers like a fire hydrant feels about dogs.

A major shift has occurred in malpractice complaints in recent years with fewer and less-expensive surgical cases and an increasing number of failure to diagnose cases. In 1990, failure or delay in diagnosis amounted to 19% of cases, but by 1994 the number jumped to 43% and accounted for 40% of all indemnity. By contrast, surgical liability cases dropped from 19% to 11% and amounted to only 4% of total indemnity in 1994. Surgeons are increasingly scrutinized by quality review and pre-authorization, but meanwhile, managed care plans have restricted diagnostic tests, forced busier schedules, and caused physicians to see patients whose medical history is not well-known to them. Thus, gatekeepers (GPs and internists) have become larger and more vulnerable targets as trial lawyers relentlessly probe for deep pockets.

An economy breithes through its tax loopholes.

If you are worried (who isn’t?) about an IRS audit, the worst town to live in is Las Vegas with an audit percentage of 2.92%. Contrarily, Milwaukee is the least likely with a rate of 0.32%. Of course, other factors enter such as income over 100K, self-employed, and corporations with assets over $1 million. Still, stay optimistic, the odds are 99 of 100, that you will not be visited by the IRS.

Addenda

- Annual routine maintenance for the excimer laser is $40,000 to $70,000.
- If it’s called tourist season, why can’t we shoot them?
- California Association of Consumer Advocates is the new name for the trial lawyers club. What a lovely new acronym—CACA.

Alas and keep the faith—rrs.