

Does the thing speak for itself? Surgical fires and res ipsa loquitur, published 11-21-2024 in Reuters and WestLaw Today, written by attorneys Abbye Alexander, Christopher Tellner, Henry Norwood

Christopher J. Tellner, Abbye E. Alexander and Henry Norwood of Kaufman Dolowich LLP discuss the doctrine of res ipsa loquitur and how courts have ruled on whether it applies in cases involving surgical fires.

While medical malpractice cases typically require proof of a breach of care on the part of medical providers, the circumstances of certain cases may allow for a loosened burden of proof. The doctrine of res ipsa loquitur (Latin for "the thing speaks for itself") applies in cases that, because of the underlying circumstances, are particularly difficult for plaintiffs to prove. Res ipsa loquitur typically applies to cases in which the mechanism causing the harm also results in destroyed evidence or in cases in which a breach is difficult or impossible to pinpoint.