

"Pandemic-Delayed Lawsuits Are Coming to Court," Healthcare Risk Management, quoted by Abbye Alexander, Christopher Tellner, Christopher Brown, 2-1-23

The COVID-19 pandemic paused the usual flow of medical malpractice lawsuits, but it appears that is ending. Hospitals and clinicians are seeing more filings, which could put unusual pressure on risk managers, defense counsel, and insurers. (Read full article at link below)

The pandemic delayed lawsuits that might otherwise have been pursued at that time because some courts were completely closed. At other times, they were bogged down by COVID-19 precautions and trying to shift to working through videoconferencing, explains Abbye E. Alexander, JD, partner with Kaufman Dolowich Voluck in Orlando. Additionally, some people were less inclined to file medical malpractice claims during a time of national crisis. "These doctors and nurses were all being hailed as heroes. That's now subsided a little bit," Alexander says. "Most people still think they're heroes, but the hype surrounding that has subsided substantially. Therefore, it's not going to be a difficult point for attorneys and plaintiffs in the malpractice realm, whereas they may have run into certain issues during the time when nobody wanted to sue doctors, and everybody wanted to hail them as heroes."

Alexander expects to see a surge in malpractice lawsuits now that courts are open, and plaintiff attorneys are eager to make up for lost revenue during the pandemic.

There is a significant increase in the number of cases filed against nursing homes in Florida, says Christopher E. Brown, JD, partner with Kaufman Dolowich Voluck in Orlando. Much of Brown's work involves long-term care defense. "The reason for that is we had a period of time — over a year — in which you didn't have families coming into these facilities. They were prevented from seeing their loved ones and they didn't know the condition of their loved ones," Brown says. "Because of that, they weren't aware of some of the alleged negligence that's taking place within those buildings. Now that you've got families back in seeing their loved ones, there has been an uptick in the number of suits that we're seeing."

Telemedicine May Spur Cases

There is concern the sudden expansion of telemedicine could lead to more claims, but so far that does not seem to be happening, says Christopher J. Tellner, JD, partner with Kaufman Dolowich Voluck in Blue Bell, PA. "A lot of that is because the plaintiffs' bar doesn't necessarily know how to value those cases, or how to demonstrate the causal relatedness between telemedicine and the failure to diagnose, for example, which we predict is going to be the larger of the telemedicine cases," Tellner says.

Those telemedicine cases eventually will be filed, Alexander says. They will involve venue issues related to the patient's location. There also will be questions of whether the provider carried the proper insurance to cover that patient, was trained for the care they provided, and whether the patient was located where they were supposed to be. *(Read full article at link below)*