

# Tennessee Attorneys Memo

Presents



Includes the latest  
developments in the medical  
malpractice area in Tennessee

## Your Distinguished Faculty

### Judge Tom Brothers

Davidson County Circuit Court

### Judge Jeff Hollingsworth

Hamilton County Circuit Court

### Brandon Bass

Law Offices of John Day PC, Brentwood

### William L. Bomar

Glankler Brown, PLLC, Memphis

### Charles Higgins

Burch, Porter & Johnson, PLLC, Memphis

### Clint Kelly

The Kelly Firm, Hendersonville

### Randy Kinnard

Kinnard Clayton & Beveridge, Nashville

### Wendy Longmire

Ortale Kelley, Nashville

### James E. Looper, Jr.

Hall Booth Smith, P.C., Nashville

### Marty Phillips

Rainey, Kizer, Reviere & Bell, PLC, Jackson

### Chris Tardio

Gideon, Cooper & Essary PLC, Nashville

### Joshua Walker

Associate General Counsel, University of  
Tennessee, Knoxville

**M. Lee Smith**<sup>®</sup>  
P U B L I S H E R S

a division of BLR

10th  
Annual

2017

# Medical Malpractice Conference

for Tennessee Attorneys

**When: Thursday & Friday, May 4-5**

**Where: Nashville School of Law**

This program features Davidson County Circuit Judge Tom Brothers and Hamilton County Circuit Judge Jeff Hollingsworth, along with a faculty of leading defense and plaintiffs' attorneys, explaining the very latest developments in healthcare liability and sharing trial experiences.

### Highlights include:

- Pre-suit notice and certificate of good faith requirements
- Review of causation issues
- Medical battery and informed consent
- Choosing and using expert witnesses
- Using medical records when examining witnesses
- Deposition strategies to help you win at trial
- Voir dire and jury selection strategies
- Using technology in the courtroom
- Dos and don'ts from a trial judge
- Review of recent healthcare liability appellate court decisions
- Panel discussions of "hot topics" in healthcare liability actions
- Ethical issues in dealing with medical records
- Ethical issues arising during settlement negotiations

**BONUS:** Attendees will receive a binder of materials during the conference and will be able to download the materials after the seminar.

EARN  
CLE  
CREDIT

15 hours of CLE  
(12 hours of general  
and 3 hours of  
DUAL)

*Attend this two-day satisfaction-guaranteed event and enhance your professional skill set while gaining valuable CLE credit, 12 hours of general CLE and 3 hours of dual CLE.*

**Get up to date on the hottest issues in Tennessee healthcare liability law:**

- **Prerequisites for filing suit.** Learn tactics to employ when establishing or challenging the statutory requirements of giving pre-suit notice or filing a certificate of good faith.
- **Jury selection.** Learn how to prepare for jury selection, how to bring to the surface juror biases, and effective tactics in using peremptory and for-cause challenges.
- **Judicial perspective.** Get tips from Davidson County Circuit Judge Tom Brothers and Hamilton County Circuit Judge Jeff Hollingsworth on the most effective ways to present your case.
- **Medical records.** Learn how to use medical records to your advantage in making a powerful presentation at trial.
- **Hot topics.** Get the latest on proving or attacking causation, handling medical battery and informed consent claims, and choosing/using expert witnesses.
- **Deposition strategies.** Get tips on deposing the plaintiff, the defendant, and expert witnesses.
- **Case law review.** Get up to date on the latest appellate court developments in the healthcare liability area.
- **Settlement negotiations.** Get tips on how to avoid the ethical dilemmas that may arise during settlement negotiations.
- **Ethics.** Learn how to address ethical issues that arise with HIPAA requirements and issues involving the confidentiality of medical records.

**WHERE**  
Nashville School of Law  
4013 Armory Oaks Dr.  
Nashville, TN 37204  
615-256-3684

Convenient access to 1-65 and 1-440.  
For complete directions, visit:  
[mleesmith.com/TNmedmal](http://mleesmith.com/TNmedmal)

 **FREE PARKING**

 **FREE WIRELESS INTERNET ACCESS**

**WHEN**  
Thursday & Friday, May 4-5  
Registration: 7:30 A.M.  
Conference: 8:00 A.M. - 5:00 P.M.

**CONFERENCE FEES**  
\$497 full program (\$427 for additional attendees from the same firm)  
\$347 (One day only – choose either Thursday or Friday)  
\$247 for materials  
Program fee is fully refundable if you are dissatisfied with this event.

**Early bird: \$50 off until March 24.**

Registration begins at 7:30 A.M. The conference kicks off at 8:00 A.M. and concludes at 5:00 P.M. (There will be morning and afternoon breaks, and lunch will be provided with registration)

**PRESENTED BY**  
M. Lee Smith Publishers®,  
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# Agenda

## THURSDAY, MAY 4

### Healthcare Liability: Case Update

8:00 A.M. TO 9:00 A.M.

**Brandon Bass**, Law Offices of John Day, PC

Mr. Bass will review recent appellate cases in the healthcare liability area including admission of expert testimony, comparative fault, and *res ipsa loquitur*.

### Voir Dire and Jury Selection Strategies

9:00 A.M. TO 10:00 A.M.

**Brandon Bass**, Law Offices of John Day, PC  
**James E. Looper, Jr.**, Hall Booth Smith, P.C.

Mr. Bass and Mr. Looper will discuss jury selection strategies and offer tips on issues such as:

- Preparing for jury selection – researching your “target audience” (venue, juror pool demographics, creating your “ideal juror,” and drafting surveys/questionnaires)
- Preparing the pretrial order
- Introducing your case during jury selection
- Bringing to the surface and overcoming juror and judicial biases
- Reading the vital non-verbal signals jurors are sending
- Peremptory and for-cause challenge tactics

— MORNING BREAK 10:00 A.M. TO 10:15 A.M. —

### Notice and Other Pre-Suit Monsters

10:15 A.M. TO 11:15 A.M.

**Randy Kinnard**, Kinnard Clayton & Beveridge

Mr. Kinnard will discuss the dangers associated with pre-suit notice requirements, some traps lawyers have fallen into, the certificate of good faith requirement, securing experts and other challenges before filing suit.

### Dos and Don'ts When Trying a Healthcare Liability Case: A Judicial Perspective

11:15 A.M. TO 12:15 P.M.

**Judge Jeff Hollingsworth**, Hamilton County Circuit Court

Judge Hollingsworth will discuss common mistakes lawyers make when trying a healthcare liability case. What can you do to prevent these mistakes and give your client the best representation possible? Get insight from Judge Hollingsworth on how he expects attorneys to conduct themselves when trying cases in his courtroom. Hear examples of the types of trial presentations that have impressed him or the types of antics and tactics he feels attorneys should avoid.

— 12:15 P.M. TO 1:15 P.M. LUNCH —  
(\*INCLUDED WITH REGISTRATION)

### Panel Discussion of “Hot Topics” in the Healthcare Liability Area

1:15 P.M. TO 2:15 P.M.

Judge Hollingsworth and leading plaintiffs’ and defense attorneys discuss some of the “hottest” issues in the healthcare liability arena. Listeners are invited to ask questions, share their own experiences, and join in the discussion.

— AFTERNOON BREAK 2:15 P.M. TO 2:30 P.M. —

### Ethical Issues When Dealing with Medical Records/HIPAA

2:30 P.M. TO 4:00 P.M.

**DUAL  
CREDIT**

**Marty Phillips**, Rainey, Kizer, Reviere & Bell, PLC

Mr. Phillips will discuss the ethical issues that arise in dealing with HIPAA requirements and issues involving the confidentiality of medical records.

- Confidentiality of the patient’s physician and hospital medical records
- Tennessee law
- HIPAA requirements
- Minimum necessary standard (HIPAA compliant authorizations)
- What to release
- Privacy standards – authorized uses and disclosures of patient health information and patient rights

## Deposition Strategies

4:00 P.M. TO 5:00 P.M.

**Wendy Longmire**, Ortale Kelley

The depositions of parties and key witnesses are of paramount importance in healthcare liability cases. A case can be won or lost in a deposition. Gathering important details and facts in depositions will lay the foundation for the outcome of the case. Let Ms. Longmire walk you through the key questions you should be asking and how to properly evaluate the information shared in a deposition.

- Preparing your client and witnesses for depositions
- Deposition procedure
- Key questions you need to be asking
- Doctor and medical expert depositions
- Techniques for deposing the plaintiff, the defendant, and experts
- Defending or attacking the deposition
- Using the deposition at trial

## FRIDAY, MAY 5

### Use of Medical Records in Examination of Witnesses

8:00 A.M. TO 9:00 A.M.

**Chris Tardio**, Gideon, Cooper & Essary PLC

Mr. Tardio discusses how to properly use medical records to your advantage.

- Finding golden nuggets in medical records and summaries
- Getting the records into evidence: What's admissible? What's not?
- Powerful presentation of records at trial
- Hearsay hurdles
- Compelling arguments using medical records
- Challenging the medical evidence of the opposing side
- Defending your medical evidence

### Causation Issues

9:00 A.M. TO 10:00 A.M.

**William L. Bomar**, Glankler Brown, PLLC

Mr. Bomar will review legal causation issues that arise in healthcare liability cases.

- Proving causation
- Special causation defenses
- "Comparative causation"
- How to attack the other side's causation proof

— MORNING BREAK 10:00 A.M. TO 10:15 A.M. —

### Ethical Issues in Settlement Negotiations

10:15 A.M. TO 11:45 A.M.

**DUAL  
CREDIT**

**Joshua R. Walker**, Associate General Counsel, University of Tennessee, Knoxville

- Candor in contentions of fact and law
- Creating/avoiding/addressing conflicts of interest
- Addressing coverage issues
- Issues in wrongful death claims
- Rights and claims of non-parties

— 11:45 A.M. TO 12:45 P.M. LUNCH —  
(\*INCLUDED WITH REGISTRATION)

### Hot Topics in Healthcare Liability Cases

12:45 P.M. TO 1:45 P.M.

**Charles Higgins**, Burch, Porter & Johnson, PLLC

Mr. Higgins will discuss some "hot topics" in the healthcare liability arena, including:

- Choosing and using expert witnesses
- Admissibility of expert testimony
- Qualified protective orders
- Tort reform affecting the Healthcare Liability Act

### Using Technology to Excel as an Advocate

1:45 P.M. TO 2:45 P.M.

**Judge Tom Brothers**, Davidson County Circuit Court

- What types of technology are available
- Why use demonstrative evidence
- How to use illustrative aids during trial
- How to appeal to emotion
- When and how may jurors review computer generated materials
- Video court recording
- What the future holds
- The latest on e-discovery

— AFTERNOON BREAK 2:45 P.M. TO 3:00 P.M. —

### Panel Discussion of "Hot Topics" in the Healthcare Liability Area

3:00 P.M. TO 4:00 P.M.

Judge Brothers and leading plaintiffs' and defense attorneys discuss some of the "hottest" issues in the healthcare liability arena. Listeners are invited to ask questions, share their own experiences, and join in the discussion.

### Medical Battery and Informed Consent Claims in Tennessee: Essential Attorney Practice Tips

4:00 P.M. TO 5:00 P.M.

**Clint Kelly**, The Kelly Firm

Medical battery and informed consent cases are on the rise. Mr. Kelly will offer you tips on trying medical battery and informed consent cases. He will discuss some recent appellate court cases dealing with these types of claims and will explain the differences in the two. Is an expert required? Do you have to file a certificate of good faith before proceeding with either claim? Does the injury have to be caused by malpractice?

## Your Distinguished Faculty



**Judge Tom Brothers**,  
Davidson  
County Circuit  
Court



**Charles Higgins**,  
Burch, Porter  
& Johnson,  
PLLC,  
Memphis



**James E. Looper, Jr.**,  
Hall Booth  
Smith, P.C.,  
Nashville



**Judge Jeff Hollingsworth**,  
Hamilton  
County Circuit  
Court



**Clint Kelly**,  
The Kelly Firm,  
Hendersonville



**Marty Phillips**,  
Rainey, Kizer,  
Reviere &  
Bell, PLC,  
Jackson



**Brandon Bass**,  
Law Offices of  
John Day PC,  
Brentwood



**Randy Kinnard**,  
Kinnard  
Clayton &  
Beveridge,  
Nashville



**Chris Tardio**,  
Gideon,  
Cooper &  
Essary PLC,  
Nashville



**William L. Bomar**,  
Glankler  
Brown, PLLC,  
Memphis



**Wendy Longmire**,  
Ortale Kelley,  
Nashville



**Joshua Walker**,  
Associate  
General  
Counsel,  
University of  
Tennessee,  
Knoxville

## REGISTRATION FORM. FOR ASSISTANCE, CALL 800-727-5257.

**YES!** I want to get up-to-date information on the latest and most significant developments affecting my clients and my practice. Please reserve my spot at the **Medical Malpractice Conference for Tennessee Attorneys**. My registration includes the two-day conference, pages of valuable course materials, lunch, morning and afternoon snacks, and up to 15 hours of CLE credit. If I am dissatisfied, I am entitled to a complete refund of my registration fee. Fee: \$497 for program (**\$447 before March 24**), \$427 for additional attendees from the same firm, \$347 for one day only, \$247 for materials only.

May 4 & 5 – Full Program

Day one only  Day two only

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### FEE

\$497 for program, \$427 for additional attendees from the same firm, \$347 for one day only, \$247 for materials

### Cancellation Policy

- A \$50 processing fee applies to ALL conference cancellations.
- Registrants are responsible for the entire program fee for a cancellation made after 5:00 p.m. three weeks prior to the event (whether or not you attend the program or fail to cancel).
- An alternate may attend in place of the original registrant.

## WE MAKE IT EASY TO REGISTER.

### ON THE WEB:

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### BY FAX:

Fax completed form to  
800-785-9212

### BY MAIL:

Detach form and mail

## 10 reasons to attend this conference:

- **Quality presenters.** Your presenters are all authorities in the field of healthcare liability.
- **Judicial perspective.** You'll hear from Davidson County Circuit Judge Tom Brothers on the use of technology in a healthcare liability case, while Hamilton County Circuit Judge Jeff Hollingsworth will discuss the "dos and dont's" of trying a healthcare liability case.
- **Balance.** You'll hear from both plaintiffs' attorneys as well defense attorneys.
- **Practical information.** You'll get information you can put to use in your practice right away.
- **Dynamic interaction.** You'll be encouraged to ask questions and present your own situations for discussion.
- **Timely information.** You'll get up to date on the latest developments in the healthcare liability area.
- **Useful materials.** You'll receive a notebook of materials to take back to the office with you for future reference. And, you'll be able to download the materials after the conference.
- **Convenient location.** The Nashville School of Law is located just off I-65 and I-440, near the downtown Nashville area, and provides you with plentiful, free parking.
- **Internet access.** The Nashville School of Law has free wireless Internet access in its classrooms, allowing you to stay in touch with your office.
- **CLE.** You can earn all of your annual CLE credit – 12 hours of General and 3 hours of Dual.

## Comments from last year's conference:

*"This is an excellent program year-in and year-out."*

*"The speakers offered practical examples and experiences, keeping the audience engaged."*

*"Relevant, timely, well-organized, great presentations."*

*"The materials are always the best – I love that I get a binder to take back to the office with me."*

*"The case law update each year is always a highlight."*

*"One of the best CLE seminars in the state – I always come back every year!"*

**When: Thursday & Friday, May 4-5**  
**Where: Nashville School of Law**

For registration assistance or to register additional attendees, call 800-727-5257 or visit us online at [mleesmith.com/TNmedmal](http://mleesmith.com/TNmedmal)