



# 2018 Medical Malpractice Conference For Tennessee Attorneys

THURSDAY- FRIDAY, MAY 17-18 | NASHVILLE

EARN  
CLE  
CREDIT

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



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

## HIGHLIGHTS:

- Recent healthcare liability appellate court decisions
- Review of causation issues
- Choosing and using expert witnesses
- Deposition strategies to help you win at trial
- Voir dire and jury selection strategies
- Using technology in the courtroom
- Ethical issues in dealing with medical records
- Practical tips for opening and closing statements
- Preventing hospital/physician liability
- Ethical issues arising during settlement negotiations

## YOUR DISTINGUISHED FACULTY

### Brandon Bass

Law Offices of John Day PC, Brentwood

### William L. Bomar

Glankler Brown, PLLC, Memphis

### Judge Thomas Brothers

Davidson County Circuit Court

### Daniel Clayton

Kinnard Clayton & Beveridge, Nashville

### Brian Cummings

Cummings Manookian PLC, Nashville

### Phil Elbert

Neal & Harwell, PLC, Nashville

### C.J. Gideon, Jr.

Jr., Gideon, Cooper & Essary PLC, Nashville

### Barry Howard

Howard Tate Sowell Wilson Leathers & Johnson, PLLC, Nashville

### D. Scott Hurley

The Hurley Law Firm, P.C., Knoxville

### Charles Molder

Mounger & Molder, PLLC, Columbia

### Marty Phillips

Rainey, Kizer, Reviere & Bell, PLC, Jackson

### Jordan Scott

Lewis, Thomason, King, Krieg & Waldrop, P.C., Nashville

### Chris Tardio

Gideon, Cooper & Essary PLC, Nashville

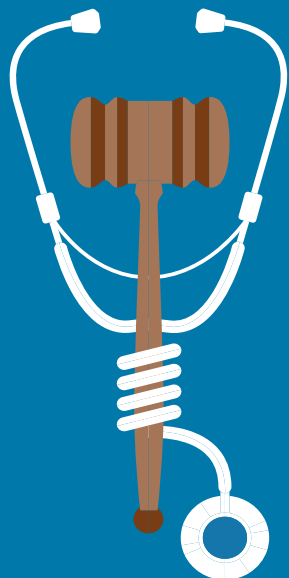
### Chris Vrettos

Gideon, Cooper & Essary PLC, Nashville

**Tennessee  
Attorneys Memo**

**M. Lee Smith®**  
PUBLISHERS  
a division of BLR

Learn more and register at [www.mleesmith.com/TMMC](http://www.mleesmith.com/TMMC)



# 2018 Medical Malpractice Conference for Tennessee Attorneys

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:

- **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 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, effective use of technology, and how to have a successful mediation.
- **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 decisions in healthcare liability.
- **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.

## Agenda

FOR FULL AGENDA DETAILS, VISIT [MLEESMITH.COM/TMMC](http://MLEESMITH.COM/TMMC)

THURSDAY, MAY 17

### Tennessee Healthcare Liability: Case Update 8:00 A.M. TO 9:30 A.M.

How do recent decisions affect your approach to pending medical malpractice cases? Mr. Bass will review recent appeals court cases in the healthcare liability area that can have a significant impact on your strategy, including *Bray v. Khuri*, *Henderson v. Vanderbilt Univ.*, *Miller v. Vanderbilt Univ.*, and *Vandyke v. Foulk*. You'll gain valuable, practice-critical insights into new pre-trial notice and certificate of good faith requirements, admission of expert testimony, comparative fault, and *res ipsa loquitur*.

### MORNING BREAK 9:30 A.M. TO 9:45 A.M.

### DUAL CLE: Ethics, Evidence and Experts 9:45 A.M. TO 10:45 A.M.

Using experts in a medical malpractice case can present a host of ethical pitfalls for Tennessee attorneys. Earn DUAL CLE as you learn how to avoid them!

### What's Working in Medical Malpractice Mediation 10:45 A.M. TO 11:45 P.M.

When a malpractice case is headed to mediation, you have to arm yourself with the most effective negotiating tactics. Learn proven methods for achieving the best outcome for your client through mediation.

### LUNCH 11:45 P.M. TO 12:45 P.M. (INCLUDED WITH REGISTRATION)

### Bookending your Arguments: Opening and Closing Statement Success Secrets 12:45 P.M. TO 1:45 P.M.

What tone should you strike in your opening statement? What thematic narrative should you introduce, and how? What mistakes do many attorneys make at closing? Learn how to get your malpractice case off on the right foot, and deliver a powerful summation, with keen insights from an experienced litigator.



### **Preventing Hospital/Physician Liability**

1:45 P.M. to 2:45 P.M.

If a patient claims to have suffered as the result of errors in a hospital setting, both attorneys representing the patient and those representing the hospital must know where the courts will limit liability and hinder the ability to recover damages. In this session, learn how recently decided Tennessee cases change the approach to take and when institutions are either vulnerable or immune.

### **AFTERNOON BREAK 2:45 P.M. TO 3:00 P.M.**

### **Trial Tips & Tactics from a Defense Perspective**

3:00 P.M. to 4:00 P.M.

C. J. Gideon will share tried and true trial tips for defending a medical malpractice case from start to finish. He has been representing health care providers in professional negligence matters, peer review matters, and other litigation for 39 years, and has litigated cases for health care providers in virtually every arena, from administrative tribunals to state and federal courts, and has tried nearly 200 cases to conclusion. He regularly represents health care companies, hospitals, and physicians in Tennessee and other states in professional liability actions.

### **Litigating Causation Issues in Tennessee Healthcare Liability Cases**

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

In a healthcare liability action, the plaintiff has the burden of proving that as a proximate result of a negligent act or omission, they suffered injuries which would not otherwise have occurred. Regardless of if you represent the plaintiff or the defendant, you should always evaluate causation on the front end of the case and as the case progresses. Join us for this review of legal causation issues that arise in healthcare liability cases.

## **FRIDAY, MAY 18**

### **Defensive Weapons: Keys to Repelling a Medical Malpractice Claim in Tennessee**

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

Successfully defending a malpractice charge in Tennessee requires a mix of legal, technical, and communication skills -- and it all starts long before the case comes to trial. Get the latest on claim investigation, causation defenses, summary judgment, depositions tactics, using medical records and defending your evidence.

### **Deposition Best Practices: How to Prepare, Take, and Defend**

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

Update your knowledge of evidentiary and procedural issues with depositions. We'll cover grounds for objections, handling privilege issues, terminating or limiting a deposition due to bad faith, options if questions are annoying, embarrassing, or oppressing to a witness, and more.

### **MORNING BREAK 10:00 A.M. TO 10:15 A.M.**

### **Combining Proof and Argument to Create a Convincing Story**

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

We'll cover how to share themes, stories, and memorable items at trial to inform and persuade your jury, avoiding the trap of too much tech. You'll learn how to tell a compelling story and develop cohesive and memorable themes throughout a medical malpractice trial.

### **LUNCH 11:15 A.M. TO 12:15 P.M. (INCLUDED WITH REGISTRATION)**

### **DUAL CLE: Ethical Litigation of Liability Claims under HIPAA**

12:15 P.M. TO 1:15 P.M.

Understanding HIPAA requirements for safeguarding PHI is critical to successfully litigating many malpractice claims. Learn the latest rules on breach reporting, obtaining medical records, uses and disclosures of PHI, application of the HIPAA privacy and security rules to defense firms, use of PHI in litigation, and more.





### **Winning at Trial: A Judicial Perspective on Attorney use of Technology**

1:15 P.M. to 2:15 P.M.

Join Davidson County Circuit Court Judge Tom Brothers for a fascinating look at what's working in courtroom technology and the applications being used to make compelling arguments.

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

### **Preparing for Voir Dire: Your Ground Game for Better Malpractice Case Juries**

2:30 P.M. TO 3:00 P.M.

Have a malpractice trial coming up? You can find a list of sample voir dire questions with a click of a mouse. But what really makes them effective? What do you need to accomplish during voir dire? And how can you use it to gain an advantage over your opponent?

### **Voir Dire and the Art of Asking the Right Questions**

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

Once jury selection has begun, you want to use every minute of it your advantage. Learn proven methods for communicating with prospective jurors and spotting those characteristics that can make or break your case.

### **DUAL CLE: Ethics During Depositions When Dealing with Difficult Parties**

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

Depositions in cases of medical malpractice can become heated very easily and fostering a professional atmosphere can be challenging. Earn DUAL CLE as you learn techniques for keeping everything on an even keel in the face of passionate litigants.

## **WHEN AND WHERE**

**Thursday and Friday**

**May 17-18, 2018**

Nashville School of Law

4013 Armory Oaks Dr., Nashville

- Convenient to 1-65 and 1-440
- FREE PARKING and FREE WIFI

For directions, visit: [mleesmith.com/TMMC](http://mleesmith.com/TMMC)

Registration begins at 7:30 a.m. The conference begins at 8:00 a.m. and concludes at 5:00 p.m. each day. There will be morning and afternoon breaks, and 1 hour for lunch, which is included with registration.

### **CLE CREDIT**

15 hours CLE

(12 hours of general and 3 hours of DUAL)

### **CONFERENCE FEES**

\$497 for entire program

(\$70 off for additional attendees from same firm)

\$347 for one day only

\$247 for materials only

\$50 early bird discount until April 6.



**Learn more and register at**  
**[www.mleesmith.com/TMMC](http://www.mleesmith.com/TMMC)**

# YOUR DISTINGUISHED FACULTY



**Brandon Bass**, with the Law Offices of John Day PC, in Brentwood, was named Tennessee Trial Lawyer of the Year for 2017 by the Tennessee Trial Lawyers' Association. He has previously been selected by Best Lawyers in America for plaintiffs' personal injury litigation, and as a top rated personal injury lawyer by Super Lawyers. Mr. Bass serves on the Board of Governors for the Tennessee Trial Lawyers Association and has testified before the Tennessee Senate Judiciary Committee.



**William L. Bomar** is a member of Glankler Brown, PLLC, in Memphis. Mr. Bomar concentrates his practice in the areas of commercial litigation, health care, medical malpractice, construction litigation and insurance litigation. Mr. Bomar was named one of the Top Rated Lawyers in Healthcare Law in 2013 by American Corporate Counsel magazine.



**Judge Thomas W. Brothers** was appointed to the Davidson County Circuit Court in February 1989. He practiced law in Nashville as a solo practitioner (1978-89) in the law offices of Jack Norman. Judge Brothers is a member of the Tennessee, Nashville and American Bar Associations and L.A.W. He is a member of the ABA Judicial Division's Technology Committee. As a member of the Tennessee Judicial Conference, he serves as Chair of the Technology for the Courts Committee and is a member of the Pattern Civil Jury Instructions Committee and the Delay Reduction Committee.



**Daniel L. Clayton**, with the law firm of Kinnard, Clayton & Beveridge in Nashville, is Board-Certified as a Civil Trial and Medical Malpractice Specialist. He has handled a diverse array of cases, from car accidents and medical malpractice claims to birth injuries and brain damage. Best Lawyers named Mr. Clayton as the 2018 Medical Malpractice Lawyer of the Year - Nashville, marking the third time he has received this recognition.



**Brian Cummings**, with Cummings Manookian in Nashville, has 18 years of litigation experience, including successfully handling and trying scores of medical malpractice and personal injury cases. Mr. Cummings was selected in 2017 by The National Law Journal as an Elite Lawyer of the South. He received the Top 10 Attorney Award for Tennessee in 2017 for excellence in the field of Personal Injury from the National Academy of Personal Injury Attorneys (NAOPIA). Mr. Cummings is Board-certified as a Medical Malpractice attorney by the American Board of Professional Liability Attorneys.



**Philip N. Elbert** joined the Nashville law firm of Neal & Harwell, PLC, in 1981. He has broad experience in both civil and criminal cases. He has won multimillion-dollar verdicts at trial and negotiated many millions of dollars in settlements for clients in cases involving serious personal injury or death. In the aggregate, he and the attorneys under his supervision have recovered close to \$100 million in verdicts and settlements in personal injury cases.



**C. J. Gideon, Jr.**, with Gideon, Cooper & Essary in Nashville, has been representing health care providers in professional negligence matters, peer review matters, and other litigation for 39 years. He has litigated cases for health care providers in virtually every arena, from administrative tribunals to state and federal courts, and has tried nearly 200 cases to conclusion. Mr. Gideon regularly represents health care companies, hospitals, and physicians in Tennessee and other states in professional liability actions. He also regularly represents hospitals and physicians in peer review matters, in Tennessee, Florida, and in other states.



**Barry Howard** is a founding partner of Howard Tate Sowell Wilson Leathers & Johnson, PLLC, in Nashville and has more than 36 years experience representing corporate and insurance clients in a wide range of civil litigation. Mr. Howard is a member of the Tennessee Association of Professional Mediators, the Tennessee Defense Lawyers Association (TDLA), and the Defense Research Institute (DRI).



**D. Scott Hurley** is the principal shareholder in The Hurley Law Firm, P.C., in Knoxville. His practice focuses on civil litigation, including catastrophic personal injury, wrongful death, medical malpractice, commercial and probate litigation. Mr. Hurley has been a frequent speaker at legal and continuing education seminars on evidence, expert testimony, direct and cross examination techniques, witness preparation, jury selection and damages in personal injury and wrongful death cases.



**Chaz Molder**, founder of Mounger & Molder, PLLC, in Columbia. Molder is licensed to practice in all Tennessee Courts as well as the United States District Court for the Middle District of Tennessee and the United States Supreme Court. Molder's practice is litigation oriented, with a primary emphasis of civil litigation.



**Marty Phillips** is a member of Rainey, Kizer, Reviere & Bell PLC in Jackson. Mr. Phillips has significant experience representing clinics, hospitals, physicians, and nurses in medical malpractice actions. He is a frequent lecturer on topics related to medical malpractice and trial practice. He is the author of "The Admissibility of Failing the Board Certification Exam," published by the Defense Research Institute.



**Jordan Scott** with Lewis, Thomason, King, Krieg & Waldrop, P.C., in the Nashville office practices professional-liability defense and civil litigation. Before joining the firm, Mr. Scott served as the hospital attorney for Middle Tennessee Mental Health Institute where he directed the day-to-day legal services for the hospital, conducted weekly commitment hearings, and advised the hospital administration on HIPAA compliance, potential liability, and employment law.



**Chris Tardio**, with Gideon, Cooper & Essary in Nashville has extensive experience defending hospitals, physicians, and other healthcare providers in virtually all kinds of professional negligence cases, from pre-suit investigation through trial and appeal. He has represented clients in disputes with federal agencies, state boards, and insurance companies. He has successfully represented parties on both sides of peer review matters – the physician side and the hospital side. He has special interest and experience in the most complex of cases, including multi-district litigation and complex birth injury litigation. He has actively participated in almost a dozen healthcare-related jury trials and administrative trials, including over a half-dozen complex multi-week trials.



**Chris Vrettos** is an attorney with Gideon Cooper & Essary PLC in Nashville. Mr. Vrettos has defended physicians, hospitals, and nurses in a diverse range of professional liability actions through all phases of litigation. He has tried multiple cases to a defense verdict. He regularly advises clients regarding changes in laws affecting the defense of health care liability lawsuits, and also handles the defense of premises liability actions occurring on hospital grounds.

## REGISTRATION IS EASY!

 Web: [MLEESMITH.COM/TMMC](http://MLEESMITH.COM/TMMC)

 Phone: 800-727-5257

 Email: [Eventsales@blr.com](mailto:Eventsales@blr.com)

Offer code: MLXX82

Get up-to-date information on the latest and most significant developments affecting your clients and practice. Reserve your seat at the **2018 Medical Malpractice Conference for Tennessee Attorneys**. Your registration includes the two-day conference, pages of valuable course materials, lunch both days, morning and afternoon snacks, and up to 15 hours of CLE credit, including 3 hours of DUAL.

Guarantee: If you are not completely satisfied, we will refund 100% of your registration fee-no questions asked.

### Cancellation Policy

- A \$50 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.

### 10 reasons to attend the 2018 Medical Malpractice Conference for Tennessee Attorneys:

1. **Quality presenters.** Your presenters are all authorities in the field of healthcare liability in Tennessee.
2. **Judicial Perspective.** Davidson County Circuit Judge Tom Brothers will discuss the use of technology in a healthcare liability case.
3. **Balance.** You'll gain insights from noted plaintiffs' and defense attorneys.
4. **Practical information.** You'll get tips and guidance you can put to use in your practice right away.
5. **Dynamic interaction.** You'll be encouraged to ask questions regarding specific situations
6. **Timely information.** You'll get up to date on the latest developments in healthcare liability.
7. **Useful materials.** You'll receive both hard copy and digital materials to take back to the office with you for future reference.
8. **Convenient location.** The Nashville School of Law is located just off I-65 and I-440, and provides free parking.
9. **Internet access.** Free wireless will allow you to stay in touch with your office.
10. **CLE.** You can earn all of your annual CLE credit – 12 hours of general and 3 hours of Dual.

Here's what your colleagues said about last year's **Medical Malpractice Conference for Tennessee Attorneys**:

*"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: May 17-18, 2018**  
**Where: Nashville**

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