



Chip Holmes

Partner

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t 704.335.9058



Chip Holmes has a diverse litigation practice that includes defense of monetary damages claims in civil court and professional liability defense – particularly medical malpractice, business disputes, insurance litigation, premises liability litigation, and defense of professionals before state licensing boards. He has more than 20 years of experience in both state and federal courts, as well as in arbitration and mediation.

He is admitted to practice in all three federal district courts in North Carolina, and he has argued cases before the North Carolina Court of Appeals and Supreme Court. He is also certified as a mediator by the North Carolina Dispute Resolution Commission.

Chip counsels and represents clients on a broad range of issues, including:

Defense of medical malpractice claims

- Professional malpractice defense and risk management issues for hospitals, physicians, and other health care professionals

Tort claims

- Personal injury defense, including wrongful death and catastrophic injury claims
- Premises liability

Defense of physicians and nurses in licensing board matters

- Representation of health care providers in multiple contexts before the North Carolina Medical Board and Nursing Board, as well as other licensing bodies

Defense of commercial and construction disputes

- Commercial contract disputes
- Unfair trade practice disputes
- Construction litigation and arbitration

Insurance coverage

- Insurance coverage disputes and first-party claims

Transnational litigation and arbitration



CHARLOTTE OFFICE



PRACTICE AREAS

Litigation
 Professional Negligence
 Defense
 Alternative Dispute
 Resolution (ADR)
 International Dispute
 Resolution
 Medical Malpractice
 Defense



EDUCATION

Wake Forest University
 JD, 1993
 University of North Carolina
 at Chapel Hill
 BA, 1990



ADMISSIONS

North Carolina, 1993



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REPRESENTATIVE EXPERIENCE

Huffman v. Hospital - The decedent in this wrongful death matter was 65 years old when he presented to Gaston Memorial Hospital's Emergency Department in January of 2006 complaining of difficulty breathing and disorientation. The patient's medical history included morbid obesity (more than 560 pounds), chronic respiratory acidosis, obstructive sleep apnea, hyperkalemia, congestive heart failure, chronic atrial fibrillation, and possible renal failure. After admission to post-ICU, the patient was administered medications that made him incontinent of bowel. At one point, a primary care nurse requested assistance with cleaning the patient, and several personnel responded. The head of the bed was lowered to a flat position in order to reposition the patient from side to side for cleaning. The patient became agitated, complained of shortness of breath, and asked to be positioned with his head back up. Shortly after completing the cleaning process, it was realized that another cleaning would be necessary. During the second cleaning, the patient complained again of shortness of breath then became unresponsive and stopped breathing, whereupon a "code blue" was called.

Unfortunately, the patient never responded to resuscitation efforts and was pronounced dead approximately 20 minutes later. At trial, the estate alleged that the nursing staff acted negligently by laying Mr. Huffman flat in order to clean him, and in failing to notify a physician of the patient's respiratory difficulties before undertaking the second cleaning process. At trial in January of 2010, the jury returned a no negligence verdict in favor of the hospital.

Butner v. Ophthalmologist - The defendant physician, a retina specialist, was accused of inappropriately treating a small retinal tear with surrounding sub-retinal fluid by using a Barrier Laser rather than applying a scleral buckle. Plaintiff alleged that the more invasive procedure, the scleral buckle, was needed to provide more effective protection against future detachment. The plaintiff further alleged that the defendant did not obtain proper informed consent related to her treatment options, and that he did not appropriately monitor the patient's progress and condition following the laser procedure. Approximately four months after the laser procedure, the plaintiff suffered a complete retinal detachment and loss of vision in the right eye. After two and a half years of treatment by other providers aimed at salvaging the patient's eye,



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the plaintiff elected to have the eye removed as the result of ongoing pain. At the conclusion of a three-week trial, the jury returned a verdict of no negligence in less than half an hour. Plaintiff's counsel had asked the jury to award in excess of \$2 million.

The Estate of Hicks v. Emergency Medicine Physician - This case was tried over five weeks in January and February of 2014. The estate alleged negligence in the emergency department treatment of the decedent, a 19-year-old new mother of a baby boy who had been delivered six weeks earlier via an emergent C-section. The decedent presented three times to the emergency department with worsening vital signs, nausea, and vomiting at each successive presentation. She was diagnosed as suffering from viral gastroenteritis and sent home after the first two visits. On the third visit, she was admitted to the hospital, and over the ensuing nine hours, deteriorated into septic shock and DIC. Following her death, an autopsy revealed a fusobacterium necrophorum infection of the uterus. Plaintiff alleged that administration of broad spectrum antibiotics at any of the three emergency department visits would have saved the patient's life. After a five-week trial, the jury returned a verdict in favor of the defendants. Plaintiff did not appeal.

Estate of Lowman v. Hospital - The decedent was involved in a one-car accident on Interstate 40 near Valdese, North Carolina, on Monday, February 28, 2011. The decedent's son was present in the vehicle at the time of the accident. The vehicle flipped over and, according to the decedent's son, his mother was suspended upside down by her seat belt for some period of time while unconscious. The decedent was taken by ambulance to a small community hospital where she was evaluated, treated, and released. Four days later, on Friday, March 4, 2011, the decedent was brought to our client hospital by her husband complaining of lower abdominal pain and low back pain.

The vital signs were within normal limits, but the patient complained of pain at a "10" on the pain scale and was noted to be crying while holding her abdomen. Lab work revealed evidence of a urinary tract infection, which was the ultimate diagnosis in the emergency department prior to the patient's discharge. Approximately nine hours later, the decedent was observed by her family getting out of bed, presumably to go the bathroom. She collapsed in her bedroom and her husband, a trained paramedic, began CPR. The decedent



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hemorrhaged profusely and was pronounced dead shortly after returning to the emergency department by ambulance.

An autopsy revealed approximately three feet of necrotic small bowel allegedly resulting from a seat belt injury in the motor vehicle accident. The hospital, represented by Chip Holmes, went to trial on an apparent agency allegation in March of 2014. After one week of trial, plaintiff's counsel dismissed the hospital, with prejudice, citing the effectiveness of Chip at the trial of the case as the sole reason for the dismissal.

Mullen v. Hospital – On October 2, 2009, an 81-year-old female arrived via EMS at defendant hospital complaining of chest tightness, pain in the back of her arms and under her shoulder blades. The pain came about acutely while the patient was at the grocery store. She was admitted with a presumptive diagnosis of acute coronary syndrome. On October 5, the patient underwent a thallium stress test. The patient alleged that she was not transferred properly, and that her complaints of pain were ignored. The thallium test was negative, and the patient was about to be discharged when she expressed complaints of lower extremity weakness. She was subsequently diagnosed with spinal cord compression and permanent paraplegia. The lawsuit alleged that the compromised condition of the patient's spinal column was not recognized, and that the process of improperly transferring the patient for the stress test resulted in permanent paralysis. The case was tried in May and June of 2014, and a defense verdict was rendered by the jury after only 45 minutes of deliberation.

Brown v. Hospital – This matter involved a sexual battery by a respiratory therapist on a severely brain injured and debilitated patient. The incident was witnessed and immediately reported by a nurse who walked in unexpectedly. The therapist was reported by another patient two days earlier as having touched her inappropriately, but investigation into the complaint determined that the patient's account was unreliable, and the therapist had no history of misconduct at the defendant hospital or in prior employment. Plaintiff alleged that the defendant hospital knew or should have known that the therapist might sexually assault a patient based upon the prior complaint, and should have taken more definitive measures to ensure that he was supervised. Plaintiff sought compensatory and punitive damages. Case tried to a jury, who rendered a defense verdict for the hospital.



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Usher v. Hospital - Plaintiff was a 40-year-old who was paralyzed in a single car accident. He alleged the intensive care nurses' failure to reposition him resulted in a deep tissue injury and osteomyelitis. The injury had not healed at the time of trial – four years after the hospitalization. Plaintiff had incurred almost \$700,000 in medical expenses and alleged damages for pain and suffering. Plaintiff's counsel asked the jury to award their client \$3 million. The jury returned a verdict of no negligence after two weeks of trial.

Williams v. Brevard College, et. al. – This was a will caveat action on behalf of Brevard College and other beneficiaries of the 2010 will and trust of a wealthy lifelong resident of Transylvania County. The decedent had bequeathed more than \$16 million to three nonprofits in the county, including our client, Brevard College, as residual beneficiary. The family of the decedent alleged that the will had been procured through undue influence by several of the beneficiaries, including representatives of the college. The family also alleged that the decedent's mental capacity made him vulnerable to undue influence. The matter was tried over six weeks in the fall of 2014 with dozens of witnesses called by both sides. After approximately four hours of deliberation, the jury returned a verdict in favor of the college and the other beneficiaries. Thereafter, the matter was successfully defended and upheld before the North Carolina Court of Appeals and Supreme Court.

SPEAKING ENGAGEMENTS

- "Steering Clear of Malpractice: Lessons Learned From OMIC Closed Claims," American Academy of Ophthalmology Webinar, March 2018
- "Mediations: The Good, the Bad, and the Ugly," N.C. Association of Defense Attorneys Annual Meeting, June 2017
- "The Noncompliant Patient: Strategies to Prevent a Malpractice Suit," N.C. Society of Eye Physicians and Surgeons Annual Meeting, September 2016
- "Violence in the Health Care Setting – Legal Issues and Concerns," Charlotte AHEC Annual Risk Management Seminar, September 2016
- "Violence in the Health Care Setting: Legal Issues and Concerns," Carolinas HealthCare System Symposium, September 2016



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- "North Carolina's Medical Malpractice 'Crisis' and the State of Tort Reform," Catawba Valley Medical Center, September 2014
- "Documentation: How Will Yours Be Judged?," Carolinas Medical Center, September 2013

HONORS

- *The Best Lawyers in America* "Lawyer of the Year" in Charlotte for Insurance Law, 2015, 2020; Product Liability Litigation: Defendants, 2019; Health Care Litigation, 2018; Personal Injury Litigation: Defendants, 2017; Medical Malpractice Law: Defendants, 2016
- *The Best Lawyers in America* in Medical Malpractice Law: Defendants, 2013-2020; Insurance Law, Personal Injury Litigation: Defendants, Products Liability Litigation: Defendants, 2014-2020; Health Care Litigation, 2015-2020
- *Benchmark Litigation*, Local Litigation Star in North Carolina, 2015-2020
- *Business North Carolina* magazine's "Legal Elite" Young Guns, 2008
- American Jurisprudence Award in Insurance Law
- Martindale-Hubbell AV® Preeminent™ in Physicians; Tort Defense; Products Liability Litigation; Civil Litigation; Insurance

MEMBERSHIPS

- Litigation Counsel of America, Fellow, 2015
- North Carolina Association of Defense Attorneys, Member