

ROBIN BURGESS SECURES DECISION FROM THE ARIZONA COURT OF APPEALS, DIVISION ONE UPHOLDING A GRANT OF SUMMARY JUDGMENT FROM THE SUPERIOR COURT

Arizona - Sanders + Parks

Attorney Robin Burgess recently secured a decision from the Arizona Court of Appeals, Division One, upholding a grant of summary judgment from the Superior Court, which held that Plaintiff had not provided admissible evidence that a physician had breached the standard of care. In the underlying case, Plaintiff had alleged through his standard of care expert that a resident physician was negligent in placing certain hardware during spinal surgery for degenerative disc disease, causing injury. The attending surgeon, however, testified during discovery that he had actually placed the hardware, not the resident. At the deposition of Plaintiff's expert, he agreed he had no criticisms of the resident other

than placement of the hardware. After the expert's deposition, Plaintiff provided an unverified disclosure statement, with opinions purportedly from the expert, outlining numerous, and new, criticisms of the resident's actions during surgery. Ms. Burgess moved for summary judgment because the "new" opinions were inadmissible, and the expert's opinions under oath revealed no viable criticisms of the resident physician. The Superior Court agreed and granted the Motion, dismissing the resident from the action. On appeal, the Court of Appeals affirmed the decision of the Superior Court on the same grounds.

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