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ANDERSON
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Let's Win This!

A Monthly Newsletter - What You Need to Know
About Personal Injury Law

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July 2018 - Issue 5



Hello!

I hope your 4th of July was happy and safe!

The last time I visited with you (find that issue [here](#), in case you missed it), we talked about the most common basis for a personal injury suit - torts. Now that you have an idea of what kind of conduct gives rise to a claim, I'd like to start a series about what it takes to prove your case in court.

We're going to dive into *evidence*. Because without evidence to back up your claims, you're wasting your time.

Evidence is a complicated subject but we'll walk through it step by step. Here at Stephens Anderson & Cummings, we believe that you're the most important part of any case (you can find the article on that subject [here](#)). If you understand what we do and why we do it, it helps us help you.

As always, if you have questions about this article or anything to do with personal injury law, give us a call, shoot us an email, or a chat with us on the website.

Thanks and best regards -



"Oh, yeah? *Prove it!*"

Even small children are familiar with the concept: simply saying that something is so doesn't *make* it so.

We don't have to just take your word for it. If you want us to believe you, back up your claim with evidence.

It's the same in personal injury litigation. To prove your case, you have to provide legal "evidence."

But what is "evidence" and how do you present it?

In court, the judge decides what is – and what is not – evidence. The significance of that decision is this: if the judge determines that something qualifies as "evidence," then the jury is *allowed to consider* it.

This is important:

- If the judge thinks something does not meet the minimum criteria of trustworthiness, then it is not "competent evidence," and the jury is not supposed to even consider it in deliberations.
- If the judge deems something to be worthy and "admits it into evidence," then jurors *may* consider it. They do *not have to* believe it or accept it as true, but they may do so if they wish.

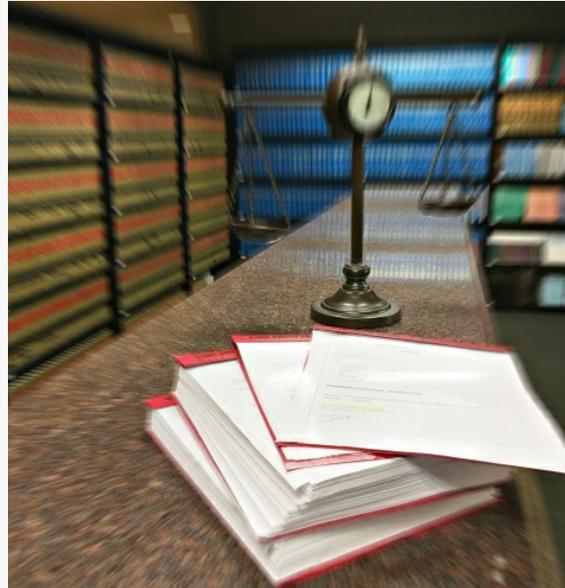
Fundamentally, to be effective, evidence must overcome two hurdles: First, the judge must decide that it's worthy of consideration (and, thus, "admit" it). Second, the jury must determine that it is credible – that is, worthy of belief. This is sometimes referred to as "giving weight to" the evidence.

It is important to understand that, just because the judge admits something into evidence does not necessarily mean that the judge believes it to be true. In Texas state courts, judges are not supposed to "comment on the weight of the evidence" - that is, tell the jury whether the judge believes the evidence to be true or not.

So, What Kinds of Evidence are There?

Generally, evidence falls into one of two categories: testimonial or demonstrative. Remember show and tell from school? Then you've got the basic idea.

Testimonial evidence is the "tell" part – what the jury hears a person say from the witness stand by someone in response to questions posed by the lawyers (or read from a deposition – which is testimony taken out of court and transcribed into a booklet and about which there will be much more in future issues of *Let's Win This!*).



Demonstrative evidence is the “show” part – what the jury sees (or, sometimes, hears or touches) that is intended to show them something factual. Think of any TV show or movie involving a trial in which a lawyer offers an exhibit into evidence – a picture, the murder weapon, a letter or other document.

You’ve heard the expression, “A picture is worth a thousand words.” Demonstrative evidence can be very persuasive and powerful, so it is one of the most important weapons in a lawyer’s arsenal. Since it can be so persuasive, the judge has to be careful to make sure that it meets the test of admissibility. Which brings us to:

What Makes Evidence “Admissible”?

The basic concept is that, to be admissible, the testimony or exhibit must come with some indication - acceptable to the judge - that it might be reliable.

Testimony, for instance, has to be given under oath. The idea is that someone who swears to tell the truth is more likely to actually do so.

And the witness has to testify from their own knowledge - not about things that they've heard from others (we'll deal with the concept of hearsay more completely in a future installment of our evidence series). Some people like to say that testimony, even if sworn, must still be clear, direct, free from inconsistency, and based upon personal knowledge.

Tangible exhibits usually have to be “sponsored” by a witness (sworn to tell the truth) and have to meet certain other requirements that we’ll talk about in future articles. Typically, exhibits can't be things created specially for the trial, but that's not always the case. Particularly when we get to the area of expert witnesses, we'll see that sometimes demonstrative evidence created for the trial can be a powerful persuader.

Ultimately, the Jury Decides the Truth

Of course, someone can get on the witness stand, swear to tell the truth, the whole truth, and nothing but the truth, and then lie.

Bells won’t ring, lights won’t flash, sirens won’t sound.

Since we're talking about lawsuits, you can be sure that the other side will put witnesses on the stand to testify and ask the judge to admit exhibits, all of which will tell a different story than yours. If everyone agreed about every fact and all damages, there would be no need for a trial.

In a trial, the evidence will be conflicting. And the judge has decided that the jury is entitled to consider all the evidence admitted - even when the evidence tells two completely different stories.

Under our system of justice, the jury decides who is telling the truth – and how much of the truth they’re telling. That ultimately puts justice in the hands of the people, where it belongs.

That means that the primary focus of all evidence - once you make sure that it's admissible - is to *persuade* the jury.

As we continue looking at this area, we'll focus somewhat on the persuasive character of evidence.

Coming Up

Future issues of our Evidence series will cover things like:

What’s Hearsay and What are the Rules About It?

Show, Don't Tell – The Role of Demonstrative Evidence in Persuasion

If there are particular things that you'd like for us to cover, just let us know. Shoot us an email (or reply to this one), give us a call, or chat through the website.

Please share *Let's Win This!* with your family and friends and anyone who needs experienced, smart, tough, and committed lawyers on their side.



Stephens Anderson & Cummings

Spotlight on the Firm

Adam Drawhorn - Associate



Sometimes - particularly when a firm has significant successes, as Stephens Anderson & Cummings has - the workload gets heavier and it's wise to bring on other lawyers to help make sure that every case gets the personal attention that it deserves.

The partners at Stephens Anderson & Cummings hired **Adam Drawhorn** as an associate in 2016.

Associate lawyers are typically younger - Adam graduated Baylor Law School in 2012 - so they have less experience. But that doesn't mean that they are less talented.

Adam's experience before joining SAC prepared him well and gave him a particularly valuable insight: For a time, he worked at a "volume" plaintiffs' personal injury firm - one of those "mills" that accept any case that comes in the door, without much regard to merit, and typically has lawyers handling over 100 files each.

Adam's time in the chaotic, fly-by-the-seat-of-your-pants world of volume plaintiff's work makes him appreciate the personal attention that every case at SAC receives. He's in a place now where he can use his skills as a lawyer to help people who need it, rather than meeting clients for the first time walking into the courtroom for trial.

"We had four sit-down meetings in about three months," Adam says of a recent client. "Having the chance to actually get to know your clients makes a world of difference in being able to focus on their best interest as the most important factor in representing them. I can promise you, it's not that way everywhere."

Adam is coming along quickly and has had some significant successes representing clients at SAC. In fact, a case that he and partner John Cummings tried last October was recently listed as one of the top verdicts in Texas of 2017.

Adam Drawhorn - another reason that Stephens Anderson & Cummings is your best bet when it comes to personal injury lawyers -

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WHY Stephens Anderson & Cummings?

Aggressive. Experienced. Trusted.

Righting wrongs for seriously injured people isn't just a job for us - it's our calling.

Fighting for seriously injured folks is what we do. And it's all we do.

If you want to make a will or form a corporation or conduct a business transaction, we can give you the names of some other lawyers to call.

But if you or a loved one have been seriously injured - or suffered a wrongful death in the family - we're your team. We're AV rated (that's the highest) and we have the drive, experience, and tenacity to stand toe-to-toe with anyone on behalf of our clients.

We're not "TV advertisers." We're real trial lawyers with a long track record of success.

We're not a "mill." We don't take every case that comes along. We understand that your circumstances are as individual as you are.

At Stephens Anderson & Cummings, every single client is unique; every single client is important. We pay personal attention to every single one.

Don't get lost in the shuffle.

Let Us Fight For You

Fellow Lawyers: We Value Your Referrals

At Stephens Anderson & Cummings, we appreciate that different lawyers have different areas of expertise. If your clients find themselves in a situation that falls within ours, we would be honored to work with you, helping them obtain justice - fighting for the best possible result.

We work hard, spare no expense, and pay referral fees promptly.

We know that your clients are important to you. We know that you represent them zealously in your area of practice. If we can't help them, we'll send them back to you.

Righting wrongs for those injured or killed due to the negligence or wrongful conduct of others is what we do. Trust us with your client's case and

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Principal Office - Fort Worth - 4200 W Vickery Blvd. - Fort Worth, TX 76107

Weatherford Office* - 123 Dallas Avenue - Weatherford, TX 76086

Dallas Office* - 3131 McKinney Avenue - Suite 600 Dallas, TX 75204

Oklahoma City Office* - 3030 Northwest Expressway , Suite 200, #130 Oklahoma City, OK 73112

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