



The Voice

And The Defense Wins

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DRI member [Ernie Auciello](#) of **Tucker Ellis LLP** in Cleveland obtained a defense verdict in August after a two-week jury trial in Athens, Ohio, in which the plaintiffs alleged the wrongful death of a 61-year-old nursing home resident. The resident died of pneumonia following a four-month stay at the defendant's nursing home.

Plaintiff's counsel from Memphis, Tennessee, presented the testimony of a nursing home physician expert and a nursing expert who claimed that the defendant nursing home failed to care for the resident and allowed stage 4 decubitus ulcers to develop. They further contended that the nursing staff failed to recognize and report early signs of pneumonia. The plaintiff secured testimony from a disgruntled former employee to question the accuracy of the medical record, but the defense presented testimony from an infectious disease expert and a vascular surgeon to counter the plaintiff's claims.

After deliberating four hours, the jury concluded that, even though charting errors were made, the defendant nursing home did not cause the resident's death.

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