

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

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	)	
GEOFFREY TYSON, M.D,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 92-2-29728-1
	)	
DAVID M. STOUT, M.D.	)	
	)	
Defendant.	)	

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VERBATIM REPORT OF PROCEEDINGS  
November 4, 1994

Heard Before: The Honorable LIEM TUAI

KING COUNTY COURTHOUSE  
SEATTLE, WASHINGTON

APPEARANCES:

TIMOTHY K. THORSON and ANTHONY RAFEL,  
Attorneys at Law, representing the Plaintiff;

R. SCOTT FALLON and THOMAS A. HEINRICH,  
Attorneys at Law, representing the Defendant;

WHEREUPON, the following proceedings were  
had and done, to wit:

Sheri Lenn Runnels, CSR, Official Court Reporter

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1 of us who sit on the trial court bench have a  
2 better understanding of what the witnesses say,  
3 what they do, what their demeanor is, and the  
4 candor of which they speak. We don't have the  
5 benefit, of course, of hindsight, being able to  
6 go back and look at the record, read the  
7 transcript, send our law clerks out looking for  
8 something, sit down in a conference with other  
9 judges or justices, kick the case around, make a  
10 decision, and then justify it. They are  
11 given time, the energy, the resources to do all  
12 that, whereas we do not. If I had the resources,  
13 the time, the energy, the drive, the desire, and  
14 obligation to do so, and had a transcript before  
15 me of everything that happened, I am sure after  
16 much reflection, of course, and research, that I  
17 could find error in what I did.

18 I am not unaware of the tremendous amount  
19 of time, the energy, the resources that the  
20 plaintiff's attorneys have put into this case.  
21 They did an excellent job. I commented the other  
22 day that if I was in a position where I needed  
23 some legal work done, and I could afford it, I  
24 would certainly hire Mr. Rafel and Mr. Thorson  
25 to do it. I think they upheld the standards, the

1 highest standards of lawyers, in the  
2 presentation of their case, did a tremendous  
3 job. But I must admit, I just cannot find that  
4 substantial justice was done when the jury  
5 rendered its verdict in this case. As I say, it  
6 would be easy for me to say, fine, move on, but  
7 I don't think I'd ever be comfortable with  
8 myself again, nor would I sleep well at night  
9 knowing that perhaps I allowed an injustice, in  
10 my opinion, to have been accomplished. It may  
11 well be that the appellate courts in all of  
12 their infinite wisdom will overrule rule me, but  
13 as I indicated, then I will probably be in good  
14 company with all of the other trial judges that  
15 they have seen fit to overrule.

16 Sometimes, and perhaps I shouldn't be  
17 saying this, but I wish they would come down  
18 here and try a few cases and know the pressures,  
19 the decision-making process that we have to go  
20 through, and perhaps they would be more  
21 considerate of the decisions we make at times.  
22 But in any event, they do their job, I do my  
23 job. And they are paid to look at what I do to  
24 determine whether or not I did it right or  
25 wrong. And if they make a considered opinion