

Be the Star of Your Own Show!



By Grace Gilliland, J.D.

Many providers feel rightfully nervous or anxious when testifying in a lawsuit. It is difficult to know what questions might be asked, how long the process might take, and what a potential jury might think. These are all unknown scenarios when it comes to presenting testimony during trial. However, providers can take some control back when testifying. They can prepare well, remain calm, be helpful, and tell their story. That is exactly what the urologist Dr. Sparkle^[1] did in the lawsuit filed against her employees and her group.

Dr. Sparkle and her employees treated a 77-year-old male patient with a long history of Benign Prostatic Hyperplasia causing urinary issues. The patient underwent a simple open prostatectomy procedure. However, a few days later, he appeared in the ED for a malpositioned catheter. A new catheter was placed with instructions to follow up with his urologist. He had a follow-up visit with Dr. Sparkle and her medical assistants for his catheter removal. The medical assistant removed the patient's catheter in the office while Dr. Sparkle supervised. The medical assistant emptied the syringe 2-3 times, attempting to

remove all the fluid from the catheter balloon. After she determined there was no additional fluid left she removed the catheter. Upon removal, the patient experienced some discomfort and bleeding and it was noted that some fluid was still in the balloon. The patient was admitted overnight to the local hospital and monitored.

The patient and his wife were upset about his medical care and filed a lawsuit against Dr. Sparkle's urology group and her medical assistants. The patient claimed he continued to suffer urologic issues including urethral stricture and sexual health issues. These issues in the case were litigated over the course of several years, which included a lot of discovery, depositions, and expert witness reviews. As time went on, however, Dr. Sparkle remained adamant that she wanted to go to trial, even after the patient and his wife made several attempts to settle the case.

When a trial date was finally set, Dr. Sparkle and her talented defense lawyers prepared to present their case to the jury. Dr. Sparkle knew she would take the witness stand and give her testimony to the jury. She was prepared for a multitude of questions, including questions about her background, education, and expertise as a urologist. She was prepared to answer questions about the patient's office visit and the step-by-step approach that was taken to remove his catheter. She was prepared to be cross-examined by the patient's attorney, which would inevitably call her skills into question. However, she remained steadfast in her preparation despite the feeling of uncertainty surrounding a trial.

Dr. Sparkle's preparation was evident throughout the trial. She remained calm, confident, and composed on the witness stand, coming across as a sincere, smart, and compassionate doctor. Even when faced with lengthy, often difficult-to-follow questions from the patient's attorney, Dr. Sparkle remained focused. She explained her documentation and medical records in a clear and relatable manner, keeping the jury (and the lawyers!) on the key facts. She also did a great job pushing back on the patient's lawyer when he asked convoluted questions or tricky hypotheticals, ensuring her answers remained accurate and sound. Dr. Sparkle stayed level-headed throughout her testimony and seemed trustworthy to the jury.

Dr. Sparkle was also very helpful in explaining the medicine to the jury. She demonstrated the use of the catheter during her cross-examination, which was a substantial piece of evidence during the trial. She showed the jury the different parts of the catheter and explained how the fluid goes in and is drawn out. This was very effective and helpful for the jury to see up close, and it made a difficult process easier to understand. Furthermore, Dr. Sparkle was fully supportive of her medical assistants' actions. She confirmed that they took all the appropriate steps to remove the fluid from the balloon which was very helpful for the jury to hear. Her thoughtful approach to her testimony ensured that the jury knew how the catheter worked and demonstrated that Dr. Sparkle and her medical assistants properly handled the patient's catheter removal.

Finally, Dr. Sparkle told her story through her expert opinions and took her role as storyteller seriously, making every effort to present her very best to the jury. She was genuine in her responses while testifying, noting important facts and calling attention to

significant details. She displayed her medical knowledge and skills confidently, setting the stage for the facts of the case to emerge clearly. This allowed the jury to see the facts and circumstances through Dr. Sparkle's medical lens, which ultimately had a positive impact on both the jury and the outcome of the case.

Dr. Sparkle truly was the star of her defense. Her personality and demeanor beamed throughout her testimony. She never wavered when the patient's lawyer questioned her or tried to take her off course. She was a guiding light for the jury's understanding of the case and the important medical issues, telling her story effectively while showcasing her medical knowledge and expertise. All of those things made a difference in this case. Fortunately, Dr. Sparkle won her case when the jury returned a defense verdict in her favor – an outcome as bright as the star witness herself!

The lifecycle of a lawsuit looks different in every case. Some cases will not go to trial, and a provider may never testify in front of a jury. However, providers can still be shining stars in any potential claim that arises. By maintaining a calm demeanor, remaining helpful, and focusing on telling their story, providers can make a meaningful impact throughout their case. While it may be easier said than done, these simple strategies can make a significant difference when it matters most and positively influence the outcome of a case.

[1] Names have been changed to protect the identity of parties involved.

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