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THE MEDICAL ASPECTS OF NEGLIGENCE CASES. By Charles Kramer. New York: Practicing Law Institute, 1953.

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BOOK REVIEWS

THE MEDICAL ASPECTS OF NEGLIGENCE CASES. By Charles Kramer. New York: Practicing Law Institute, 1953. Pp. 60. \$2.00.

Here is a compact monograph of only sixty pages dealing with a subject of the utmost importance to all lawyers handling negligence cases. Written in very simple, concise language, and liberally illustrated with hypothetical situations, it demonstrates to the reader the handling of the medical aspects of a negligence case, from the physical examination to the summation at trial.

The monograph itself speaks for the well-rounded knowledge and experience of its author, Mr. Charles Kramer. Nevertheless, a few words about the author would not be amiss; in fact, they would help to emphasize the reliability of his material. Mr. Kramer has been practicing law in New York City for the past 15 years, specializing as plaintiff's trial counsel in personal injury actions. He has been lecturing at the Practicing Law Institute in New York for the past five years on trial technique, negligence cases, and medical aspects of litigation. He has lectured from time to time before Bar Associations and other lawyers' groups. In New York, he is regarded very highly as a negligence lawyer by eminent members of his own profession.

Mr. Kramer introduces the reader to his monograph on the "Medical Aspects of Negligence Cases" with the remark that many attorneys approach the medical side of negligence cases with trepidation. He feels that this timidity may be justified on the ground that a lawyer, not having studied medicine, feels inadequate to deal with the situation. However, he suggests that the approach to this problem is no different from that taken with any legal question. Adequate preparation of the medical aspects of the case, including a study of medical terminology, examination of medical authorities, etc., is essential. The monograph, then, is presented for consideration of some of the medical aspects of negligence cases and suggestions for handling some of the problems.

Starting with the physical examination, the author stresses its importance, then discusses when, where, and how a physical examination of the plaintiff by the defendant's physician should be conducted. The injury paragraph of the bill of particulars is gone into and illustrated.

An important piece of evidence, the hospital record, is reviewed. The importance of obtaining a complete hospital record, for the purpose of careful study, is stressed. An examination of the diagnosis of the injuries alone is not enough. The order sheets, nurses notes, temperature charts,

progress notes, lab and X-ray reports may provide additional valuable information for use at trial. It must be remembered that ordinarily, a hospital record can be introduced into evidence without the testimony of the doctor or nurse who treated the patient, but only to prove the dates of admission and discharge, the diagnoses, and the treatment rendered. However, the entire record can go in if the defendant's attorney does not object.

After detailed discussion of the plaintiff's and the defendant's opening statements to the jury, the author takes up the direct examination as to injuries. Some helpful hints, as the order of presenting medical witnesses, when not to call a treating doctor, direct examination of the plaintiff's doctor, direct examination of defendant's doctor, all with illustrations, are made. Under the cross-examination of medical witnesses, the doctor's qualifications, the question of fees, the use of medical books, the medical issues, the superficiality or frequency of examinations, are discussed and illustrated. Following a brief discussion of the redirect examination, the monograph closes with a review of both plaintiff's and defendant's summation to the jury. Thus, in a matter of a few hours' reading, one can become acquainted with the manner in which medical evidence can be presented at a negligence trial.

Lest the reader take away the impression that this monograph is the answer to the problem of preparing the medical aspects of a negligence case, I hasten to dampen what may appear like unrestrained enthusiasm for it. Actually, the monograph is written on a somewhat elementary level, and would be of greater help to the fledgling attorney than to the more experienced lawyer. I have a feeling that the author meant it for recent law school graduates, just as a law professor would hand out mimeographs to his students for future reference. The illustrations, too, leave something to be desired. They are much too simple and ideal as to questions and answers. One would have to be quite naive to accept them as actuality. In no court of law would you ever hear doctors testify so simply and forthrightly to questions propounded to them. Speaking as a physician, I would challenge the accuracy of some of the medical situations developed in the book. Finally, I note that the emphasis appears to be on the plaintiff's side of the litigation. Perhaps, this stems from the author's own professional leanings. I would like to have seen more written on the defendant's side.

Despite these few criticisms, I believe this monograph has great value, particularly to the recently graduated attorney. Its brevity and compactness and simplicity of illustrations alone would recommend it, aside from the very logical and step-by-step development of the medical phase of the case. It is easily worth a few hours of anybody's time to read it through and derive the benefits it has to offer the reader.

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