



TREATING PHYSICIAN NOT ENTITLED TO EXPERT WITNESS COMPENSATION

The Arizona Court of Appeals recently held doctors are not entitled to expert witness compensation in cases where they are called to testify regarding information they obtained during the treatment of a patient. The doctor is considered a witness. Although the doctor may have possess expert knowledge regarding the medical field, a doctor is considered a witness if the physician is only providing information they gathered during the treatment of the patient. *State v. Whitten*, Division One July, 2011

The Court went on to note that if a treating doctor is asked to review medical records, offer an opinion as to another physicians actions or provide general information, the doctor may request compensation as an expert witness. The difference between and expert witness and a witness, is a witness testifies as to what they did, thought or felt at the time of treatment. An expert witness forms their opinions after the conclusion of treatment.

In personal injury cases, this is going to put the treating physicians in a very difficult position as insurance companies' attorneys will use this case to deny payment to treating doctors which could be disastrous for personal injury clients. This caselaw could be subject to abuse ultimately leading to physicians openly refusing to treat personal injury victims.