

W. RICHARD WAGNER
Jury Trial Experience
Medical Malpractice Cases

The following list of cases is a summary of Richard Wagner's jury trials which involved medical negligence issues. In addition to the cases listed, Richard has also developed or tried non-medical cases involving issues of premise liability, dram shop, vehicular accidents, assault, products liability, DTPA and general personal injury.

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
1988	<u>Mustard v. M. Butler, M.D.</u> Bexar County, Texas #85 CI 14715	Failure to x-ray & improper casting of leg fracture leading to angulation & shortening	Defense verdict	John Cornyn, III	Marynell Maloney
1988	<u>Cadena v. R. McKown, M.D.</u> Bexar County, Texas #85 CI 11695	Failure to locate & remove a piece of toothpick imbedded in heel with resulting infection	Defense verdict	David Peoples	David Turlington
1988	<u>Griffin v. T. Tucker, M.D.</u> Bexar County, Texas #87 CI 18448	Suit against psychiatrist for failing to recognize suicidal ideations of patient who committed suicide	Case settled after jury verdict reached for Defendant but not read	Joe Kelley	Dennis Bujnoch
1/09/89	<u>Mattix v. G. Matthews, M.D.</u> Hidalgo County, Texas #06 86 283A	Misdiagnosis & treatment of vascular insufficiency resulting in double amputation	Defense verdict	Menton Murray, Jr.	Richard Hoffman
3/13/89	<u>Nunez v. R. Jabur, M.D.</u> Ector County, Texas #C 66566	Foley catheter mistakenly sutured to bladder during bladder suspension procedure	Defense verdict	J. Connally	Steve Hershberger
6/19/89	<u>Herrera v. V. Haddad, M.D. & J. Jimenez/Chapa, M.D.</u> Cameron County, Texas #2757 83 C	Failure to diagnose gas gangrene after crushing leg injuries resulting in double amputation	Directed verdict	R. Longoria	David Wiggins
9/11/89	<u>Alexander v. R. Lee, M.D.</u> Bexar County, Texas #85 CI 21612	Performance of unnecessary arthroscopy resulting in knee infection	Defense verdict	Raul Rivera	Roberto Oaxaca
10/09/89	<u>Douglas v. P. Manoharan, M.D.</u> Hidalgo County, Texas #C1487 87 E	Development of femoral thrombosis after cardiac catheterization resulting in double amputation	Settled during jury deliberation	Juan R. Partida	Marynell Maloney

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
11/06/89	<u>Lopez v. J.F. Lopez, M.D.</u> Hidalgo County, Texas #C 473 88 E	Failure to ensure immediate hospitalization of child with meningococemia resulting in death	Defense verdict	Juan R. Partida	Karl Dorr
01/8/90	<u>Brehm v. W. Locke, M.D.</u> Bexar County, Texas #86 CI 16511	Delay in birth causing hypoxic episode & subsequent cerebral palsy	Defense verdict	Carol Haberman	William Young & Tommy Gillaspie
06/18/90	<u>Rivera v. B. Bujanda, M.D.</u> Hidalgo County, Texas #1863 86 C	Missed 4 inch fetus during D&C, after incomplete abortion	Settled before closing arguments	Raul Longoria	Alma Zuniga
01/21/91	<u>Campa v. R. Chandler, D.D.S.</u> Bexar County, Texas #89 CI 18550	Suicide after orthodontic treatment allegedly because of TMJ pain & fear of losing teeth due to root resorption	Defense verdict	Carol Haberman	Lynn Taylor & Robert Stecher
12/01/91	<u>Maher v. B. Akright, M.D.</u> Bexar County, Texas #89 CI 19866	Inability to diagnose ectopic pregnancy resulting in rupture & removal of fallopian tube	Non/suited after two days of trial	David Berchelman	Michael Thornton
06/24/92	<u>Trevino v. J. Kizzart, M.D.</u> Bexar County, Texas #91 CI 07724	Plaintiffs alleged Dr. Kizzart practicing at the Wilson Memorial Hospital in Floresville should have obtained an artificial airway in a patient suffering from acute epiglottitis with respiratory difficulty before transferring the patient to St. Lukes Hospital in San Antonio	Defense verdict	Martha Tanner	Ralph Lopez & Larry Zinn
07/06/92	<u>Bradley v. M. Jackson, M.D.</u> Bexar County, Texas #89 CI 19991	Plaintiffs alleged that Defendant was negligent in failing to detect, by x-ray, a tooth in the deceased's main stem bronchus probably dislodged during intubation. Plaintiffs alleged the tooth caused or contributed to cause bronchopneumonia leading to ARDS and the patient's death	Directed verdict granted in favor of Defendant	Michael Peden	John Mastin & Nick Roth
03/24/93	<u>Davis v. A. Perez, M.D.</u> Nueces County, Texas #91 CI 135570	Plaintiffs alleged Defendant was negligent in failing to further investigate a negative mammogram after palpating an area of induration which was ultimately found to be malignant	Defendant voluntarily non/suited at close of Plaintiffs' evidence	Max L. Bennett	Robert Carnahan & Joanna Tagaropulos
04/28/93	<u>Karbach v. J. Pfeiffer, Jr., M.D.</u>	Plaintiff alleged doctor performed	Defense verdict	Peter M. Curry	Steven Van

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
	Bexar County, Texas #92 CI 03627	unnecessary laparoscopy and laparotomy, sterilized her without consent, fraudulently misrepresented his care and conspired to conceal treatment rendered to evaluate abdominal pain associated with pelvic adhesions, salpingitis isthmica nodosa, continued discomfort and infertility			Gaasbeck
06/07/93	<u>Whitten v. E. McGlynn, M.D.</u> Cameron County, Texas #91 06 27698	Plaintiffs alleged Defendant was negligent in failing to detect a hole through Deceased's right ventricle and cardiac tamponade allegedly resulting from stab wound	Defendant voluntarily non/suited after two days of trial	Robert Garza	Maria Estella Perez
05/31/94	<u>Thompson v. W. Allen, M.D.</u> Kerr County, Texas #92 211 B	Plaintiffs alleged Defendant failed to recognize and treat signs and symptoms of an impending stroke which left patient paralyzed	Defense verdict	John Yates	Mark Carroll
06/13/94	<u>Diaz v. R. Campbell, M.D.</u> Bexar County, Texas #90 CI 14501	A six year old female developed hepatitis approx. 8 days after hip surgery performed by Dr. Campbell for congenital hip defect. Hepatitis rapidly progressed into fulminant liver and kidney failure requiring two subsequent liver transplants. Plaintiffs alleged hepatitis was due to anesthetic agent, Halothane. Plaintiffs further alleged Dr. Campbell affirmatively misrepresented safety of Halothane upon which the mother relied in consenting to surgery. Plaintiffs also alleged negligence in post/operative care	Defense verdict	Carol Haberman	John Allen Chalk Jerry Sawyer
11/30/94	<u>Boulware v. F. Guerra, M.D.</u> Bexar County, Texas #93 CI 02072	Plaintiff alleged pediatrician physically assaulted 14 year old patient during examination and alternatively committed medical negligence in the performance of his medical examination	Defense verdict	Carol Haberman	David A. Ayon
01/23/95	<u>Beza v. M. Bradshaw, M.D.</u> Bexar County, Texas	Plaintiff underwent a laparoscopic cholecystectomy after which she experienced	Defense verdict	John Specia, Jr.	Bruce W. Bodner Martha S. Kott

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
	#93 CI 14737	severe liver damage and an ileostomy related to injury of the right hepatic duct and a ruptured pseudo/aneurysm of the right hepatic artery, all attributable to the laparoscopic procedure			
06/05/95	<u>Digges v. D. Test, D.D.S.</u> Bexar County, Texas #93 CI 03044	Plaintiff asserted that an improperly placed IV for sedation during wisdom teeth extraction caused thrombophlebitis and debilitating Reflex Sympathetic Dystrophy. Associated allegations of lack of informed consent as well	Defense verdict	Carol Haberman	The Law Offices of Pat Maloney by Thomas Jones
11/7/95	<u>Gamblin v. T. Wilkinson, M.D.</u> Bexar County, Texas #92 CI 12497	Plaintiff asserted that silicone gel breast implants caused her to suffer a non-classical auto-immune disease. She alleged silicone gel breast implants were improperly tested, manufactured, and marketed. Plaintiff also alleged the implanting physician failed to adequately apprise her of the risks associated with the silicone gel breast implants	Doctor voluntary nonsuited at close of Plaintiffs' evidence	Charles Gonzales	Michael Gallagher Price Ainsworth Scott Nabers
11/27/95	<u>Ostrowski v. R. Bassett, M.D.</u> Cameron County, Texas #93-12-7428D	Perforated femur during hip arthroplasty, subsequent fracture distal to prosthetic stem which went to non-union. Alleged radiation burn following treatment for bursitis, alleged unnecessary surgery for removal of heterotopic bone, subsequent MRSA infection, and non-healing incision requiring abdominal graft	Defense verdict	Mark Davidson	Mary Wilson Ed Stapleton
10/14/96	<u>Cantu v. Rafael Parra, M.D.</u> Bexar County, Texas #94-CI-13398	Alleged failure to diagnose and treat osteomyelitis following a diskectomy. Further allegations that the osteomyelitis caused Plaintiff to undergo two additional fusion procedures at levels adjacent to that operated on by Defendant	Defense verdict	Michael Peden	John Grost Vic Poulos Eric Peters
7/14/97	<u>Kahanek v. James Rogers, M.D.</u> Bexar County, Texas #94-CI-13398	Alleged Tegretol toxicity which the Plaintiffs argued caused fatal heart arrhythmias in a 5 year old child with congenital heart defects	Defense verdict	Michael Peden	Valorie Davenport Steve Buttram

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
11/3/97	<u>Bland v. Jesse Moss, M.D.</u> Bexar County, Texas #95-CI-18293	Alleged unnecessary or premature eye surgery on patient with large orbital blow-out fracture which resulted in permanent double vision and disfigurement	Defense verdict	Johnny Gabriel	Tom Jones John Vance
3/23/98	<u>Thompson v. Dennis Ray, M.D.</u> Comal County, Texas #C-95-574-A	Alleged failure to diagnose and treat Lis Franc fracture	Defense verdict	Henry Strauss	Fred Cludius Andrew Toscano
9/28/98	<u>Torres v. Drs. Maribelle Garza, Sam Holmes, Stanley Fisch</u> Cameron County, Texas #97-03-1336B	Alleged failure to diagnose systemic lupus erythematosus causing death of 16 year old female	Defense verdict for Dr. Garza and Holmes Plaintiff verdict against Dr. Fisch with 65% responsibility attributed to him. 35% contrib neglig as to mother. Verdict \$140k.	Robert Garza	Richard Plezia
10/26/98	<u>Vela v. Dr. Javier De La Garza</u> Hidalgo County, Texas #C-2560-96-E	Alleged unnecessary endoscopy causing perforation of esophagus and death of patient	Defense verdict	Fernando Mancias	George Powell
5/3/99	<u>Burns v. Holland</u> Bexar County, Texas #97 CI 05743	Alleged failure to diagnose small bowel obstruction which caused death of 11 year old child	Plaintiff verdict against Dr. Holland with 50% responsibility attributed to her. Total verdict \$469k, settled for \$202,247k	David Peeples	Jerry Dennard
03/20/00	<u>Hayes v. Dr. Jose Chapa</u> Bexar County, Texas #97 CI 13856	Medical malpractice case involving alleged failure to monitor IV on 18 mo. child resulting in infiltration and 3 rd degree burns from drug reaction	Defense verdict	Carol Haberman	David Adkisson
04/04/00	<u>Durst v. Hill Co. Mem. Hosp.</u> Gillespie County, Texas #8323	Medical malpractice case involving alleged negligence of hospital personnel in attempting to start IV on prior mastectomy side resulting in severe osteomyelitis	Defense verdict Affirmed on appeal	Murray Jordan	Scott Steele Kirk Kennedy Bill Ruth
05/07/01	<u>Salinas v. Dr. P. Gentile, Dr. J. Pena and Dr. R. Mastin</u> Nueces County, Texas #99-3597-C	Medical malpractice wrongful death case involving allegations of a failure to diagnose and treat a concealed placental abruption resulting in maternal death	Settled before closing arguments	Ron Carr	Mark Clore Javier Pena Jaime Pena

<u>Trial Date</u>	<u>Style/County</u>	<u>Nature of Case</u>	<u>Result Obtained</u>	<u>Name of Judge</u>	<u>Opposing Counsel</u>
06/18/01	<u>Wolfe v. Dr. Victor Lyday</u> Bexar County, Texas #1998CI15167	Medical malpractice case involving alleged negligence in the repair of a Zone VI fifth metacarpal fracture resulting in limited mobility	Defense verdict	David Berchelmann	Ken Howell
10/29/01	<u>DeLaFuente v. Dr. J. Mathews</u> Hidalgo County, Texas #C176900E	Medical malpractice case involving alleged failure of physician and assistant to respond to complaint of breast mass ultimately determined to be malignant	Doctor nonsuited during trial	Juan Partida	Ricardo Garcia Aizar Karam
12/03/01	<u>Fernandez v. Dr. Kaye Wilkins</u> Hidalgo County, Texas #C64600B	Medical malpractice case involving 15 yo male who underwent hip fusion and leg lengthening procedure for avascular necrosis and experienced well-leg compartment syndrome and foot drop	Settled after first week of trial	Rodolfo Delgado	Ken Link Mark Clore Mario Rodriguez
03/04/02	<u>Garza v. Dr. John Lindemann</u> Hidalgo County, Texas #CL31467D	Medical malpractice wrongful death case involving allegations that emergency room physician improperly discharged patient who died 2 hours later from purported ruptured aortic aneurysm	Defense verdict	Federico Garza Jr.	Reynaldo Ortiz John Mullin
06/03/02	<u>Cruz v. Dr. Wayne Lee</u> Bexar County, Texas #2001CI05719	Medical malpractice case involving alleged failure to assess and treat comminuted tibial pilon fracture	Defense verdict	Martha Tanner	Mike St. John Martha Kott
03/29/04	<u>DeLeon v. Dr. Oscar Garza</u> Frio County, Texas #010100003CVF	Medical malpractice wrongful death case involving allegations that general practitioner failed to diagnose and treat hypovolemic/septic shock in an 8 year old girl	Defense verdict	Fred Shannon	Jeffrey Powless James George
11/01/04	<u>Pizana v. Dr. Mario Bustamante</u> Bexar County #2003CI04122	Medical malpractice case involving allegations that orthopedic surgeon failed to properly treat and rehab fractures of the hand leading to permanent disability and disfigurement.	Defense verdict	Barbara Neller-moe	Sandra Laurel Bob Ford
02/27/07	<u>Flores v. Dr. M. Salamat, et al</u> <u>Hidalgo County, Texas</u> <u>#C-1290-03-C</u>	Medical malpractice wrongful death case involving allegations that 15 yo female with Ebstein's Anomaly was negligently referred for heart surgery.	Plaintiff verdict for \$2.3M 45% on Dr. Salamat 55% on Dr. Pliska Post-judgment settlement of one-half the verdict	Bobby Flores	Michael Shore

Trial Date

Style/County

Nature of Case

Result Obtained

Name of Judge

Opposing Counsel