



Texas Supreme Court ruling in Pierce v. Abilene Regional

The Texas Supreme Court ruled in favor of an Abilene physician and Abilene Regional Medical Center earlier this year in an important case involving Plaintiffs' obligation to serve defendants with an expert report in medical malpractice cases. TAPA was involved in this case to address concerns that the clear language of the statute, which requires Plaintiffs to directly serve a copy of their expert report on the defendant, be enforced as written.

Elton Pierce was a 57-year-old male who presented to Abilene Regional Medical Center with abdominal pain, ultimately diagnosed as acute pancreatitis. Dr. Brian Ganesh provided care while the patient was in the hospital. Mr. Pierce died approximately two days later. Plaintiff Eugenia Pierce, in her individual and representative capacities, filed a medical malpractice suit against Abilene Regional Medical Center and Dr. Ganesh.

Plaintiff filed her original lawsuit with four exhibits via the Taylor County District Clerk's electronic filing manager. Those 4 exhibits included CVs and reports

from two medical experts. Each defendant was served with the citation and the original petition, but neither were served with the expert reports and CVs that were attachments to the lawsuit.

Both defendants filed an answer to the lawsuit and then later filed motions to dismiss because Plaintiff never

served them with the required expert reports. The trial court denied the motion, holding that filing the expert reports with the Court was sufficient under the law, so the Defendants appealed that denial to the 11th Court of Appeals. The Appeals Court ruled in favor of the Doctor and the Hospital, stating that Plaintiffs obligation was to serve the defendants directly with

the expert reports, and that filing them with the court was insufficient. Plaintiffs then appealed that ruling to the Texas Supreme Court, seeking re-instatement of their lawsuit. TAPA supported the Defendants, and the result was a confirmation from the Texas Supreme Court that Plaintiffs' case was dismissed for failure to comply with the plain language of the statute.

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