

Cite as: 10 TECH. L. REV., June 2013, at 179.

The Impact of Criminal Procedures on Civil Cases of Medical Negligence Litigation: An Empirical Study

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Abstract

We conducted an empirical study based on 580 civil cases of medical negligence litigations between 2002 and 2007 to examine the impact of criminal procedures on civil cases. We found 245 civil cases (42.2%) involving criminal procedures, including 57 cases in investigation stage, 99 cases not prosecuted, 12 cases in prosecution stage, 37 cases with non-guilty sentences, and 40 cases with guilty sentences. The chance to win a civil case was not associated with adopting criminal procedures, but significantly associated with the results of criminal procedures. The chances to win civil cases for the patients were 8.1% for cases not prosecuted, 41.7% for those prosecuted, 27.0% and 62.5% for those with non-guilty and guilty sentences, respectively. We further examined the association between the severity of body injury and the chance of adopting criminal procedures. We found civil

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cases involving death or major body injury were associated with 4.7 and 1.8 times' chance of involving criminal procedures compared with those with mild body injury. The cases involving body injury with death had triple chance to be prosecuted compared with those with mild body injury, although not significantly. For those sent into criminal courts, cases involving death or major body injury were associated with twice chance to be sentenced as guilty, although not significantly. In conclusion, we found the results of criminal procedures were associated with the chance to win civil cases. The severity of body injury was the key issue to be associated with the results of criminal procedures.

Keywords: Medical Negligence Litigation, Criminal Procedures, Civil Cases, Body Injury, Empirical Study