

Re: Disappearing Nesbitt Bridge [longish tale]

Source: <http://sci.tech--archive.net/Archive/sci.med.dentistry/2005-04/msg00477.html>

- *From:* "Bill" <dentaldoc@xxxxxxxxxxx>
 - *Date:* 6 Apr 2005 12:23:25 -0700
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John Keiser wrote:

I am a [California and Hawaii] lawyer. I would never sue a dentist who (1) gave me a product I specifically requested (2) provided warnings and (3) told me not to eat with the bridge. Shame on those who would pursue such a case.

Thanks for your sentiments. As a California dentist, I am well aware that many of the difficulties in dental practice stem from the actions of California lawyers. I applaud your position that you would shame those who would pursue such a case -- but so far, shame does NOT seem to deter the endless supply of California plaintiff trial lawyers.

As you are probably well aware, California law does not allow a dentist to "provide a product" to a patient simply because he requests it. First, it is firmly established in case law that a dentist does not "provide a product." Dentists provide a service. Any "products" provided are simply part of providing a service.

Secondly -- and more importantly -- any service rendered by a dentist MUST (according to the lawyers) meet the "standard of care," which is a legal concept, not a dental concept. If a plaintiff's lawyer can establish in court (and they're very good at it) that any certain treatment did not meet the "standard of care," then the dentist is in jeopardy even if the patient requested that exact treatment.

The law (again, made by, and interpreted by, California lawyers) holds that no patient can consent to any treatment that does not meet the standard of care. Thus if the patient seems to consent to such treatment, or requests the treatment on his own, or even if he signs a stack of consent forms, the doctor is still required to render ONLY treatment that meets the "standard of care."

This means, obviously, that even if the patient wants a Nesbit, the

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doctor is still legally liable if the plaintiff's lawyer can show in court that a Nesbit does not meet the current standard of care for a missing single tooth.

It should not be very difficult for a smart California lawyer to establish that in court. So a California dentist, in my opinion, is asking for trouble, and is being downright shortsighted and foolish if he agrees to make a Nesbit for a patient who wants one.

>>From a consumer's view point, I wanted a Nesbit because (1) similar device provided 20 years of good service to my wife (2) I resent the effort to steer me to an implant at 3X the cost (3) I didn't want to sacrifice a good tooth and a good crown for a permanent bridge at 3X the cost and (4) the Nesbit seemed a minimally invasive procedure which I could always improve upon later.

All those seem like reasonable positions to take. But for the reasons I outlined above, no reasonable or knowledgeable California dentist should make one. Perhaps a dentist in Hawaii could be persuaded to undertake the task, if the laws are different there.

Best regards,
– dentaldoc

• **Follow-Ups:**

- ◆ **Re: Disappearing Nesbitt Bridge [longish tale]**
◇ From: Mark & Steven Bornfeld

• **References:**

- ◆ **Disappearing Nesbitt Bridge [longish tale]**
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