

## And The Defense Wins

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[Kay Anderson](#) and [W. Bradley Gilmer](#) of **Baker, Donelson, Bearman, Caldwell & Berkowitz, PC** in Memphis, Tennessee, obtained a defense verdict in a jury trial on behalf of Dr. Daniel Scott, a Memphis family physician. The case, *Hall v. Dr. Daniel Scott*, filed in 2009, centered on Dr. Scott's care of the plaintiff's decedent and the physician's alleged failure to recommend a colonoscopy, which the plaintiff argued would have prevented the development of terminal colon cancer and subsequent death. Dr. Scott maintained that he recommended a colonoscopy to the decedent on numerous occasions and preformed colon cancer screening tests on numerous occasions, all of which were negative. Because Dr. Scott had not documented his recommendations, the patient declining his recommendations, nor the performance or result of any screening tests, the defense team focused on presenting to the jury Dr. Scott's testimony as to what his habit and custom would be. The plaintiff offered the testimony of a surgical oncologist as to causation and of a family practitioner as to standard of care. Testifying for the defense were a family practitioner and a gastroenterologist.

After a four-day trial, the jury returned a defense verdict, finding that the physician acted with ordinary and reasonable care in accordance with the recognized standard of acceptable professional practice for his profession and specialty of family medicine

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