

# LEGAL MALPRACTICE AND BREACH OF FIDUCIARY DUTY

*Andy Attorney, Mother Teresa, and the Politics of the PJC*

Mike Eady

Jeff Levinger

## MEET ANDY ATTORNEY

- 35 years old
- Partner in 25 person law firm
- Appellate practice
- Handles insurance defenses cases
- Charges \$275 per hour



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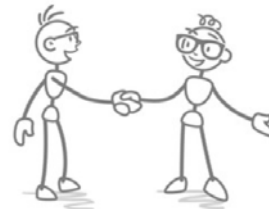
## ANDY HAS ASPIRATIONS

- Bigger cases
- Less work for insurers
- Broader name recognition
- Ability to charge higher rates



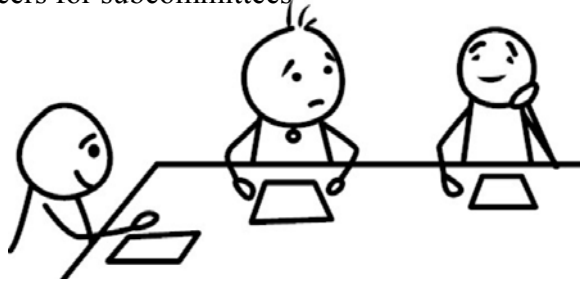
## ANDY'S MARKETING PLAN

- Joins PJC Committee on *Malpractice, Premises & Products*
- Touts jury charge experience
- Speaks at defense-oriented seminars
- Markets to east and west coast lawyers defending lawsuits in Texas



## THE PJC COMMITTEE

- Andy gets “the speech”
- Becomes acquainted with lawyers on both sides of docket
- Volunteers for subcommittees



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## THE DESIGN DEFECT PROPOSAL

### PJC 71.4 Design Defect

QUESTION \_\_\_\_\_

Was there a design defect in the *automobile* at the time it left the possession of *ABC Company* that was a producing cause of the [*injury*] [*occurrence*] in question?

A “design defect” is a condition of the product that renders it unreasonably dangerous as designed, taking into consideration the utility of the product and the risk involved in its use. For a design defect to exist there must have been a safer alternative design.

“Safer alternative design” means a product design other than the one actually used that in reasonable probability—

1. would have prevented or significantly reduced the risk of the [*injury*] [*occurrence*] in question without substantially impairing the product’s utility and
2. was economically and technologically feasible at the time the product left the control of *ABC Company* by the application of existing or reasonably achievable scientific knowledge.

Answer “Yes” or “No.”

Answer: \_\_\_\_\_

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## Title search: Legal Malpractice and Breach of Fiduciary Duty

Also available as part of the eCourse

[Texas Appellate Law Hot Topics: The Common Law, Statutory Interpretation, Malpractice, and More](#)

First appeared as part of the conference materials for the  
27<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Legal Malpractice and Breach of Fiduciary Duty Update"