



# Austin v. American Association of Neurological Surgeons, 253 F.3d 967 (7th Cir. 2001)

Topics Covered: Expert Witnesses, Medical Society Advocacy and Peer Review

**Outcome: Very Favorable**

## **Issue**

The issue in this case was whether a medical society could discipline one of its members for testifying falsely as an expert witness.

## **AMA Interest**

The AMA supports the right of medical associations to set standards for honest expert testimony by physicians and to sanction those members who violate these standards.

## **Case Summary**

The American Association of Neurological Surgeons (AANS) had suspended Dr. Austin from membership for six months because, it found, he had testified against another physician in a suit alleging professional liability without a reasonable basis for his testimony. His testimony violated the AANS code of ethics.

Dr. Austin sued AANS, and the trial court held against him. The Seventh Circuit Court of Appeals affirmed the lower court's ruling, holding that, since AANS had accorded Dr. Austin due process and had acted in good faith, he had no grounds for complaint. There is nothing wrong, it said, in having a professional association sanction one of its members for irresponsible testimony. In fact, professional self-regulation furthers, rather than impedes, the cause of justice. Dr. Austin's testimony at trial was a type of medical service, and the poor quality of that medical testimony probably reflected the generally poor quality of his medical judgment. Moreover, because membership in AANS is not a precondition to the practice of neurosurgery, his membership did not implicate an important economic interest that might otherwise justify judicial intervention.

## **Litigation Center Involvement**

The Litigation Center filed an *amicus curiae* brief to support AANS. The brief argued that a physician's expert medical testimony is an aspect of medical practice. The AANS ethical code was therefore a legitimate, good faith guideline for proper professional conduct. The brief also

argued that AANS had a constitutionally protected right to choose those persons with whom its members would associate.

United States Court of Appeals for the Seventh Circuit brief