A MOCK JURY TRIAL

YOU BE THE JURY!!!

Parties to the Suit:

Moderator/Judge:

Clare M. Bello, *VCM, A CCMSI Division*

Trial Participants:

John W. Barker, Esquire, *Vigorito, Barker, Patterson, Nichols & Porter, LLP* (Plaintiff Counsel)

Mamie Stathatos-Fulgieri, Esquire, *Vigorito, Barker, Patterson, Nichols & Porter, LLP* (Defense Counsel)

Elizabeth M. Willing, *VCM, A CCMSI Division* (Plaintiff)

Polling Instructions

- At the end of this session, you will be asked to provide us with the jury verdict. We will do this through a process called “Polling”
- Using your phone, tablet, or laptop to respond you will either:

  logon to the session at PollEv.com/clarebello474;

  OR

  you can participate by sending send a text with the message of “CLAREBELLO474” to 22333
- Each polling slide will have these instructions as well so just follow the prompts to answer interactive questions as they are opened during the presentation.

WELCOME TO JURY DUTY!

AGENDA

- Introduction of the Case and Reserve History
- Mock Trial
- Jury Verdict and Discussion

The Facts: Wilson v. Blue Ribbon Hospital and Dr. Gall

THE PARTIES:

- Plaintiff, Joanna Wilson
- Plaintiff's Husband, Don Wilson

- Defendant Facility, Blue Ribbon Hospital
- Defendant Surgeon, Dr. Aiden Gall

THE FACTS:

- Plaintiff Joanna Wilson is a married thirty-six year old woman who has relocated to Estero, Florida
- A Complaint has been filed on her behalf by Smith & Wesson Law Firm alleging medical malpractice against general surgeon Dr. Aiden Gall and Blue Ribbon Hospital
- All three are our insureds sharing a single $1,000,000 policy limit. Ms. Wilson was admitted to Blue Ribbon Hospital May 15th to May 18th
- She initially presented to the Emergency Department complaining of five days of fever and right upper quadrant abdominal pain with decreased oral intake
- She was evaluated in the ER and admitted
- IV antibiotics were started along with pain medications and Zofran for nausea

THE FACTS (CONT.):

- Consultations were obtained with Blue Ribbon Hospital insured Dr. Gall as well as the gastrointestinal service
- Imaging was consistent with gallbladder disease and she was taken into the operating room by Dr. Gall on May 17, 2013 for a laparoscopic cholecystectomy
- The following day she began complaining of right flank pain radiating to her back
- An ERCP was performed by Dr. Adam who found one or more clips on the common bile duct restricting flow
- Thereafter she was transferred to LifeCare Superior Hospital to the service of Dr. Smith for an exploratory laparotomy and further care

THE ISSUES:

- The primary issue in the case is whether a common bile duct injury is a known risk and complication of the surgery or whether this injury was the result of medical negligence
- The consent form is a pre-printed document that is not specific as to which risks are associated with this procedure.
- Whether Dr. Gall should have chosen an open surgical procedure rather than the laparoscopic technique he chose
- Dr. Gall's deposition testimony will be key in our defense both as to the informed consent issue and as to the choice of surgical technique
- Both sides have supporting expert witnesses

THE DAMAGES:

- The claimed damages by the Plaintiff are:

Lost Wages:	$42,000.00
Loan:	$10,000.00
Liens:	$5,777.00
Medical Bills:	$150,000.00

- Pain and Suffering adds approximately another $150,000 - $300,000
- So our total potential damages are in the range of $357,777 to $500,000
- Plaintiff has demanded $3,000,000

RESERVES PRIOR TO DR. GALL'S EBT:

CLAIM RESERVES:

Indemnity reserve:	$50,000.00	Expense reserve:	$63,435.01
Indemnity paid to date:	$0.00	Expenses paid to date:	$38,435.01
Outstanding indemnity reserve:	$50,000.00	Outstanding expense reserve:	$25,000.00
TOTAL PAID TO DATE:	$0.00	**TOTAL INCURRED:**	**$113,435.01**

- These are the initial reserves set on this case
- Now that we have a demand and the damages claimed we need to establish settlement reserves.
- The committee raised the indemnity reserves to $350,000.

DEFENSE COUNSEL REPORT AFTER DR. GALL'S EBT:

- Dr. Gall was deposed on January 31, 2018. Unfortunately, his testimony did not go well, in spite of significant preparation with him prior to the deposition and he partially agreed with plaintiff's counsel that his care fell below the standard of care.
- The Plaintiff's demand remains at $3,000,000 and our ability to defend the case on liability has been severely damaged. The damages estimated have not changed from $350,000 but we have the complication of our physician's partial admission during his EBT.
- We are now set for trial on May 31, 2019.
- It is recommended that unless the Plaintiff comes way down in her demand, we may need to try this case on damages.
- *Based upon the report from counsel, the committee felt it necessary to adjust the reserves to $500,000*.

Trial

- The Plaintiff did not come down in her demand to settle the case
- As such, we now head to trial

Defendant Gall's Video Testimony



As our jury, who would you find in favor of?

Plaintiff

Defendants

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If you found for the Plaintiff, would you attribute liability to the hospital?



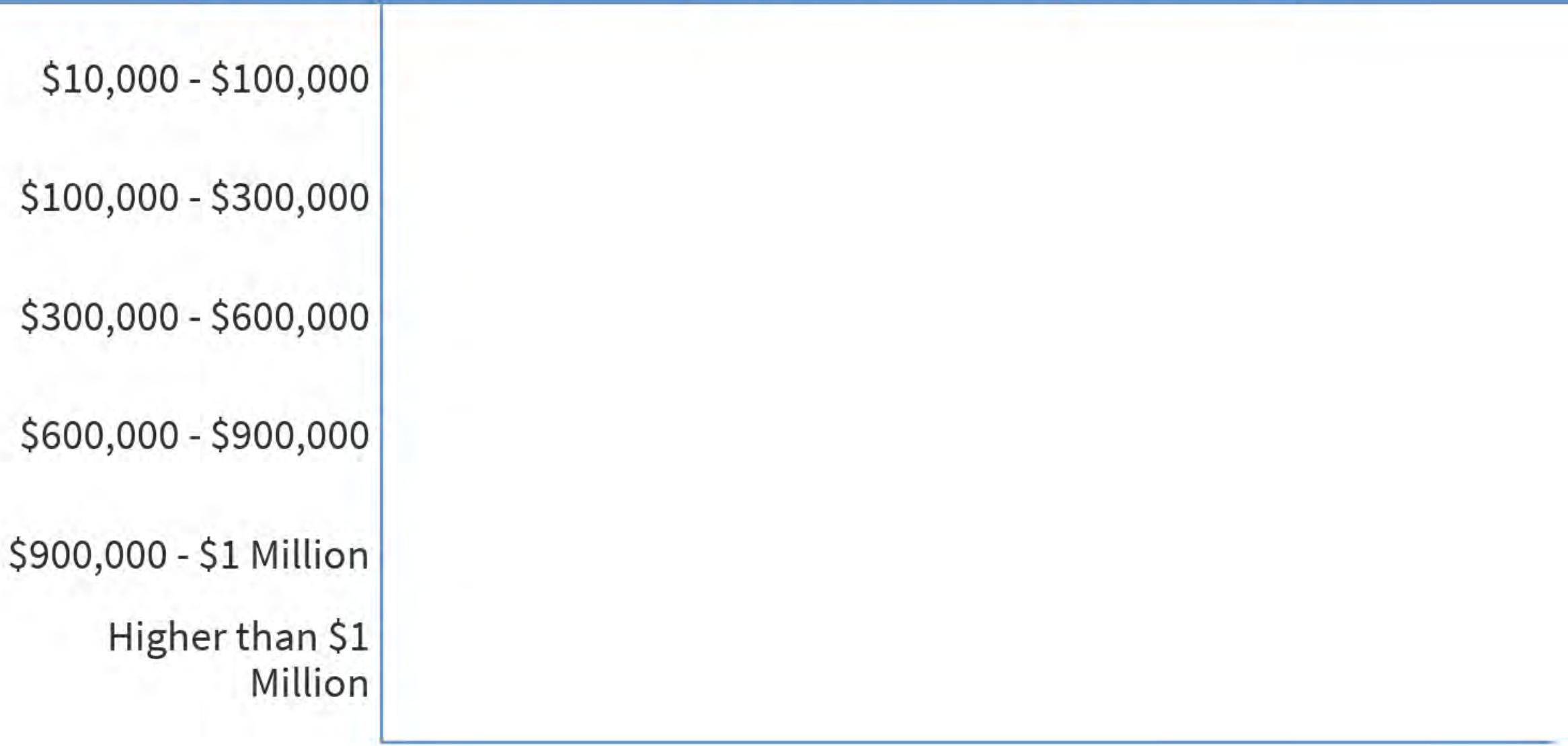
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If you found for the Plaintiff, would you attribute liability to Dr. Gall?



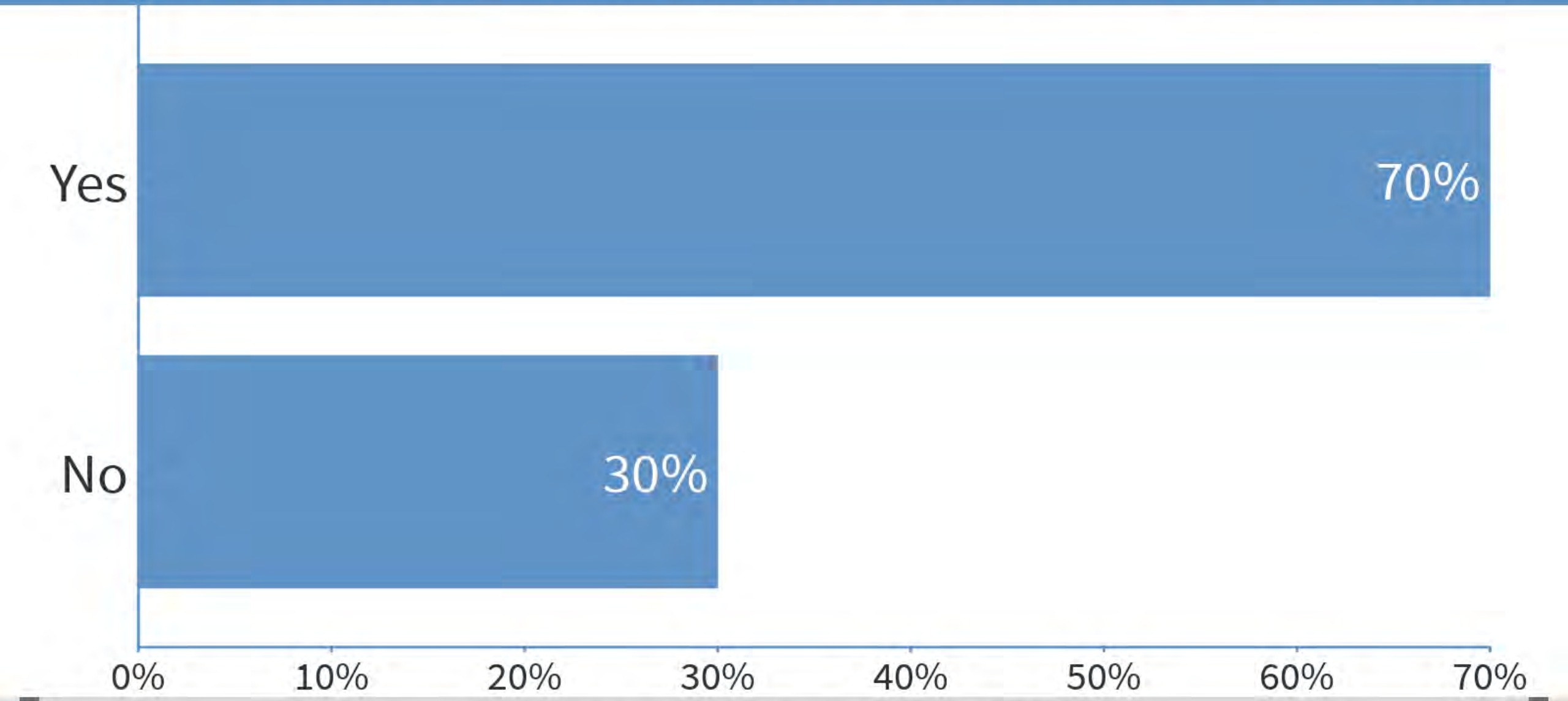
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If you found for the Plaintiff, how much would you award to her?



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Did the testimony of the Plaintiff influence your decision?



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Did the Testimony of Dr. Gall influence your decision?



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THANK YOU!!!!