

1962

## Tort and Medical Yearbook

Donald P. Lay

*Nebraska State Bar Association, member*

Follow this and additional works at: <https://digitalcommons.unl.edu/nlr>

---

### Recommended Citation

Donald P. Lay, *Tort and Medical Yearbook*, 41 Neb. L. Rev. 847 (1962)

Available at: <https://digitalcommons.unl.edu/nlr/vol41/iss4/10>

This Article is brought to you for free and open access by the Law, College of at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Nebraska Law Review by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

*Book Review*

TORT AND MEDICAL YEARBOOK: By Albert Averbach and Melvin M. Belli (Editors). (Vol. I). Bobbs-Merrill Co. 1961 Pp. 749.

This book represents the first volume of a proposed biannual publication, intended to bring to the medical and legal professions selected articles on current developments in the field of personal injury litigation. The editors, Messrs. Albert Averbach and Melvin M. Belli, are outstanding trial lawyers and recognized scholars in this field.

Included in the initial volume are monographs on virtually every facet of contemporary accident law. The spectrum ranges from "Courtroom Projection of Trauma" to "Freud's Understanding of Anxiety".

One of the most arresting articles, on a subject largely overlooked by legal writers, is entitled "Courtroom Decorum as an Aid to Proper Judicial Administration." The author, A. Sherman Christenson, is a member of the federal bench from the District of Utah. The observations which the author makes on this subject would perhaps invite snide rebuttal from the courtroom pragmatist. For example, the author argues that many recent "do-it-yourself" studies become, upon analysis, trial by gimmick or by trick. The author feels that the trial of a lawsuit is intended as a search for the truth, not as a game of ingenuity between opposing counsel. While conceding that an approach to trial tactics on the basis of broad moral and legal principles needs to be implemented by realistic techniques, the author feels that the pendulum may have swung so far in this direction that both professional and public respect for the judicial process is imperiled. Writer-jurist Christenson catalogs a list of common place courtroom situations showing how the use of courtroom decorum not only expedites the trial, but assists the lawyer in presenting his case.

Another article discusses the always debatable strategy of a defendant's admission of liability. The author points out that notwithstanding such an admission the plaintiff may yet, in certain cases, offer evidence as to the manner in which the injuries were sustained. He notes that Dean Wigmore has taken the position that no absolute rule should govern the trial court, but rather the court should be permitted to admit or reject the evidence on a discretionary basis. The reasoning advanced is that a litigant should not be

deprived of the "moral force" of his evidence because of a colorless admission of liability. For example, evidence tending to prove the force of impact would certainly corroborate the claim of severe bodily shock sustained in a rear end type collision.

In this connection, defense attorneys should not overlook the desirability and albeit necessity of obtaining the consent of the insured before tendering an unequivocal admission of liability.

Other topics covered include discussion of slip and fall cases, court actions between members of the family, and the continuing evolution of the law relating to product liability.

Of the many fine articles in this book, it is believed that anyone connected with personal injury claims would profit by a reading of the material discussing the compensation of accident victims, as seen from the viewpoint of the claimant. The opinions and conclusions expressed are based on an extensive study conducted by the New York City Bar Association. In the reviewer's opinion this article standing alone justifies the cost of the book.

In summary, the book is written and edited with a high degree of scholarship, covering a wide variety of subjects in the personal injury field. If the quality of the material in this volume is duplicated in future editions, it will prove to be a useful and informative reference work.

*Donald P. Lay\**

\* Member of the Nebraska Bar.