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THE EDITOR'S CORNER

Revenge of the Lawyers

I may have been the last person on Earth to see *Star Wars Episode III: The Revenge of the Sith*. Every two years or so, when my wife forces me, I go to a movie. I simply lack the attention span required to sit still (and keep quiet!) in a theater for two or three hours. Last week, however, when talking to a group of promising graduate students, I found myself unable to converse in any intelligent fashion about recent movies—the topic that seems to dominate the cultural sensitivities of the generation I happen to be teaching. Not wanting to appear completely out of touch, I rented the DVD that featured prominently in the conversation.

Now, despite my movie deficit disorder, I do enjoy a good action sequence as much as the next old fogey. In that respect, this movie was really something—flying car chases, drawn-out gun battles, even childbirth. But what really captured my limited attention were the battles pitting the good guys against the bad guys in to-the-death fencing matches with those incredible light sabers. Strike, thrust, parry, dodge, step, hop, spin, block, then chop and strike again, all while sparks were flying amid the constant hum of the electronic swords.

You are probably asking yourself what this has to do with the practice of orthodontics. Well, I couldn't help recalling the light-saber duels recently, when I spent the better part of the day testifying under oath as an expert witness in an orthodontic malpractice suit. I had been asked to render an opinion about whether the dentist involved had delivered orthodontic treatment that was "below the standard of care". This was a tough one. Certain things were done in the case that were clearly not what a reasonable and prudent practitioner would have done, given the original malocclusion. The patient had been poorly treated, but the question was whose fault it was. Although I routinely teach and write about what I believe to be the "right way" to do things, I always feel humble when it comes time to criticize anyone else. The old biblical quote, "Let he who is without sin cast the first stone", kept coming to mind. Under oath, however, I was

repeatedly called upon to cast stones.

I can't go into the gory details of the case, but I do want to point out a few things I learned. First of all, the defense attorney, who appeared to be a nice guy at the outset, was clearly bent on winning at any cost. His ability and willingness to use any weapon at his discretion to attack me and everyone on my side of the "battle" would have made the darkest Sith Lord proud. Strike, thrust, parry, dodge, step, hop, spin, block, then chop and strike again. No matter what I said, no matter what evidence I could produce from the literature, the other guy's light saber hacked away at me mercilessly. Standards that I take for granted in proper orthodontic care—such as establishing correct incisor angulation or using extractions as part of a reasonable treatment plan—were not only called into question, but attacked viciously. It seemed that sparks flew every time I blocked the lawyer's efforts to skewer me or slice me in two. Visions of the mutilated Anakin Skywalker (the future Darth Vader) burning next to the river of bubbling lava came to mind. While I think I gave a respectable account of myself—my arms and legs are still intact, and I don't need mechanical help with respiration—I did come away exhausted.

The fate of the defendant dentist remains to be seen at this writing, but he clearly had weaknesses that made him vulnerable—weaknesses that all of us could learn from. His initial records were extremely limited. No cephs, no photographs, and only a questionable set of plaster models that were unlabeled, undated, and unaccompanied by any sort of interocclusal record.

Because there was no way to determine what the occlusion looked like in the beginning, it was almost impossible to assess the patient's progress. That the treatment was prolonged and resulted in a questionable outcome could possibly have been explained, or at least defended, if there had been a sensible treatment plan, developed from a clinical problem list, generated by a thorough initial examination and analysis of pretreatment records. The lack of a recorded treatment plan and the absence of proper initial records made the results nearly indefensible.

So what did I learn from this experience? Some simple lessons that were preached to me in my first week of dental school: Keep your patient's well-being at the absolute top of your priority list. Always take the best possible records. Always "inform before you perform". Always monitor your patient's progress using whatever midcourse records are required, and don't be afraid to alter your treatment plan when the situation calls for it. Just be sure to document why you are changing direction, and keep records to back up your decision. Practice lifelong learning—you owe it to your patients to stay abreast of the state of the art and science when it comes to diagnosis, treatment planning, and current clinical techniques. Keep up with your professional literature. Always be cognizant of the standard of care in your community, and never hesitate to seek a second opinion when your patient would benefit from it. Oh, and one last thing: keep that light saber well tuned and close at hand. May the Force be with you.

RGK