Meritless Cases: Why Do Patients Sue

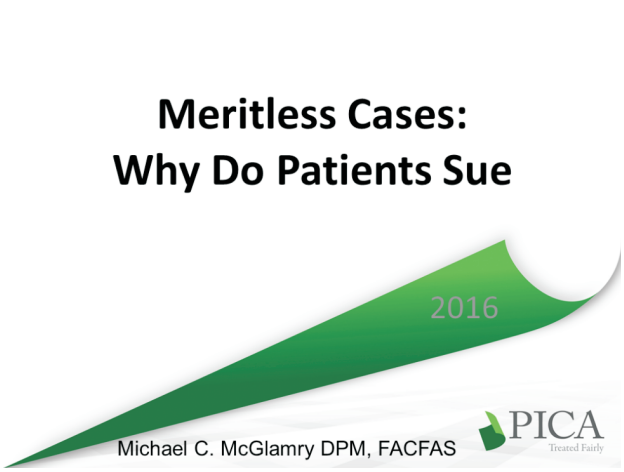

Figure 1.

Figure 2.

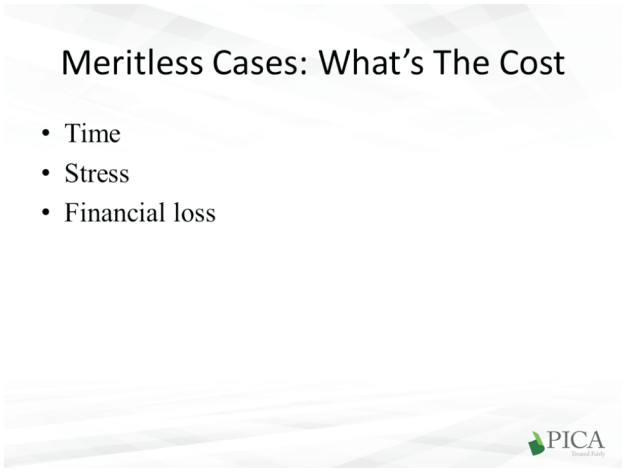

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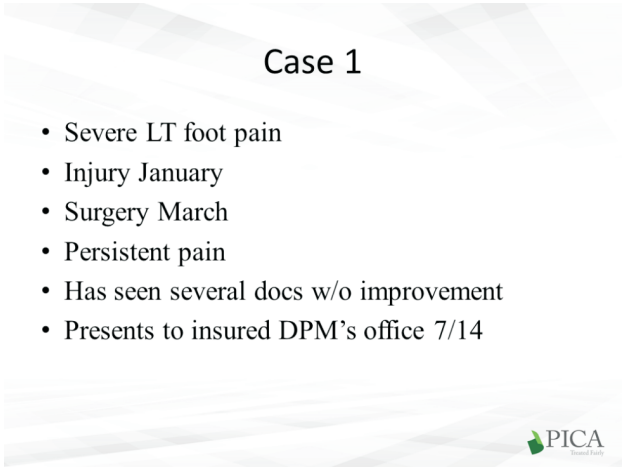
Figure 4.



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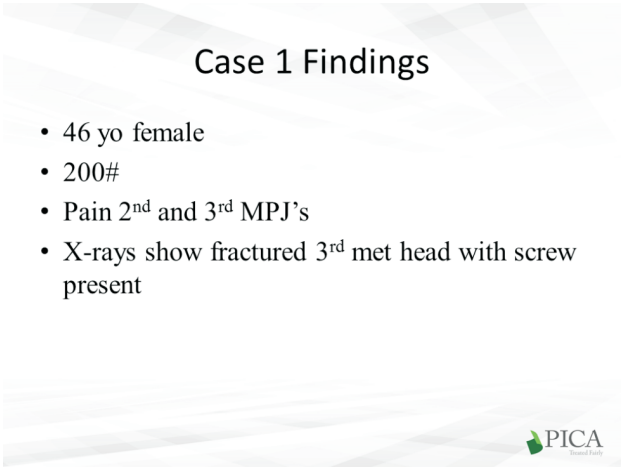

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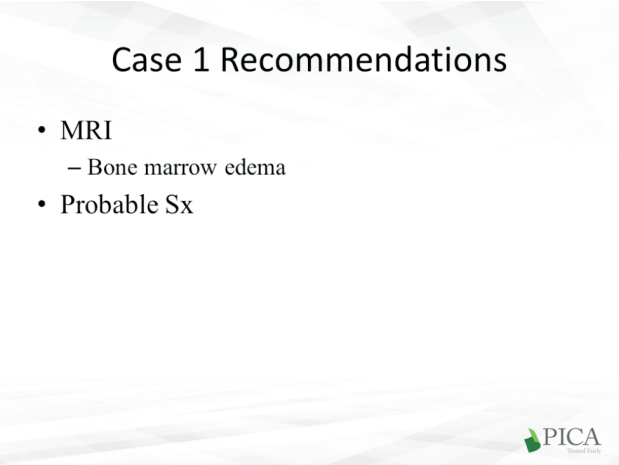

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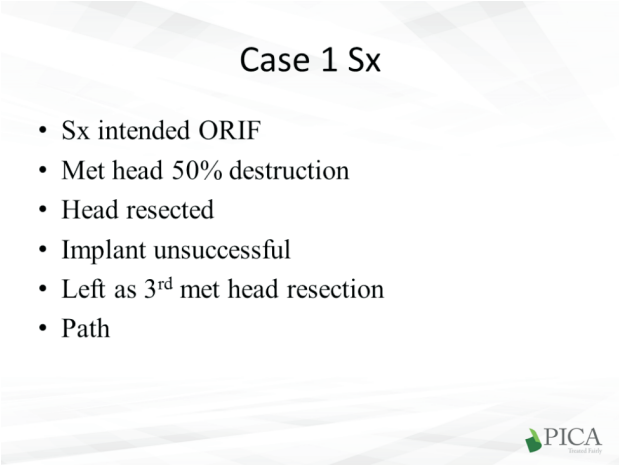

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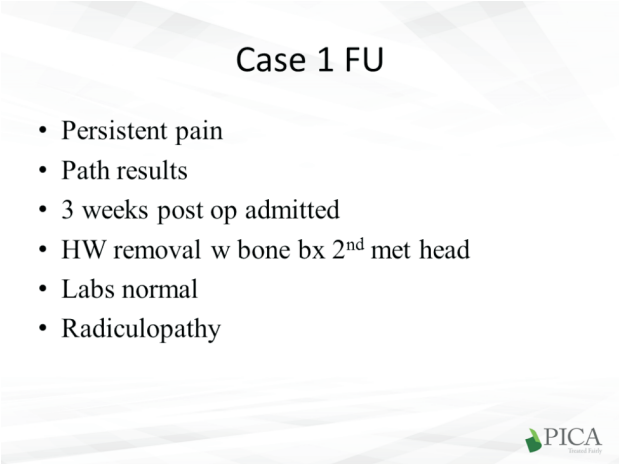

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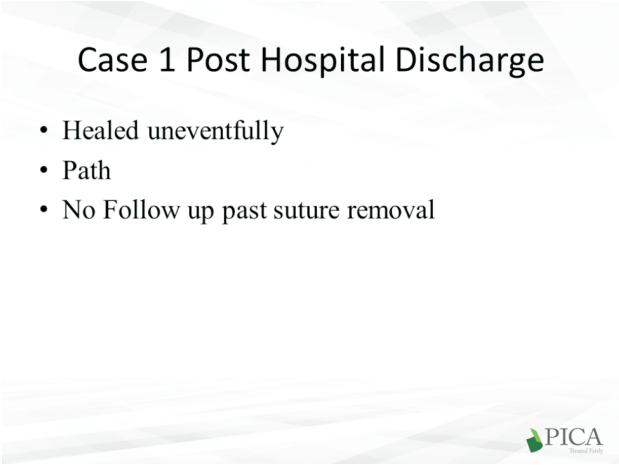

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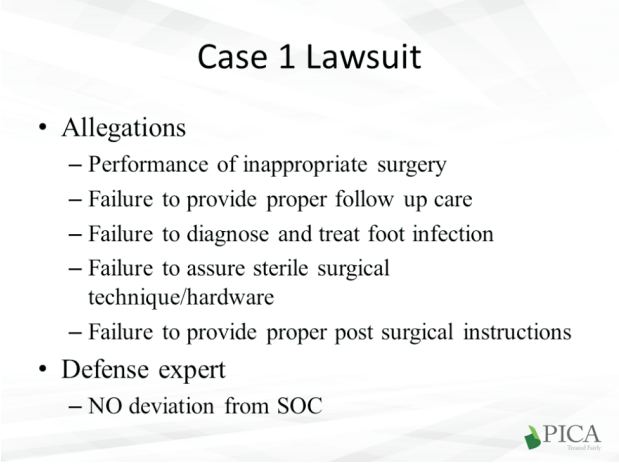

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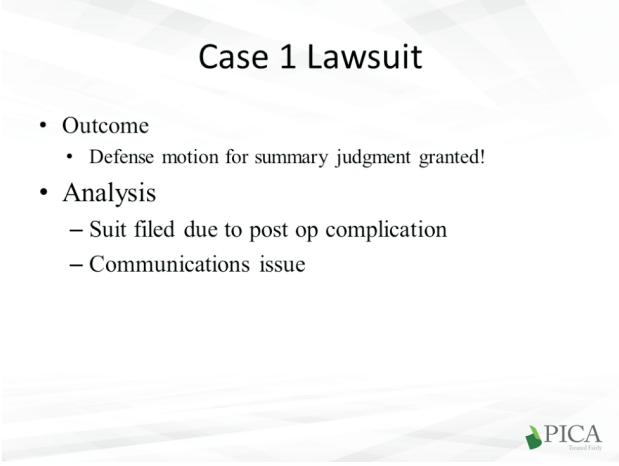

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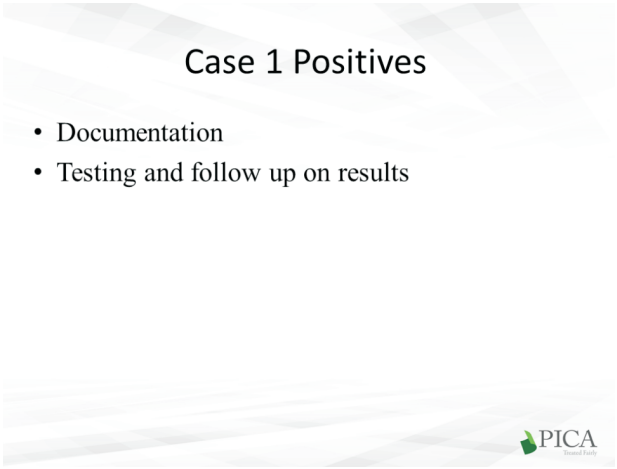

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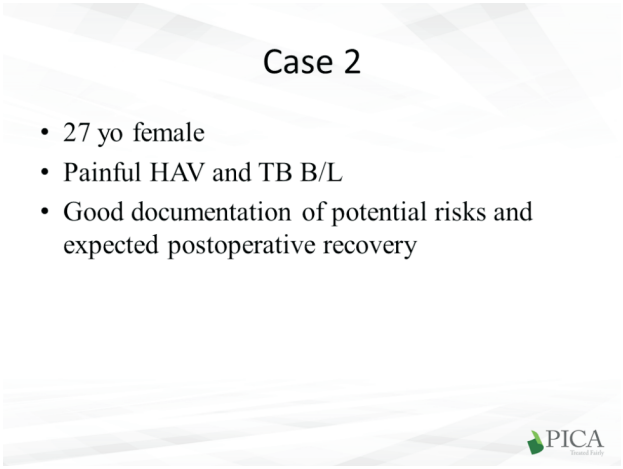

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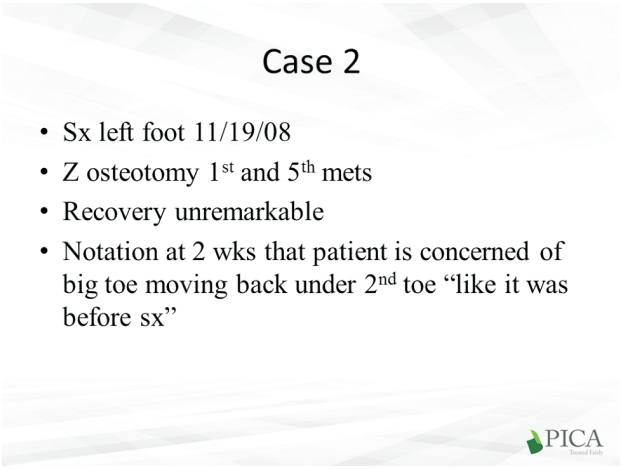

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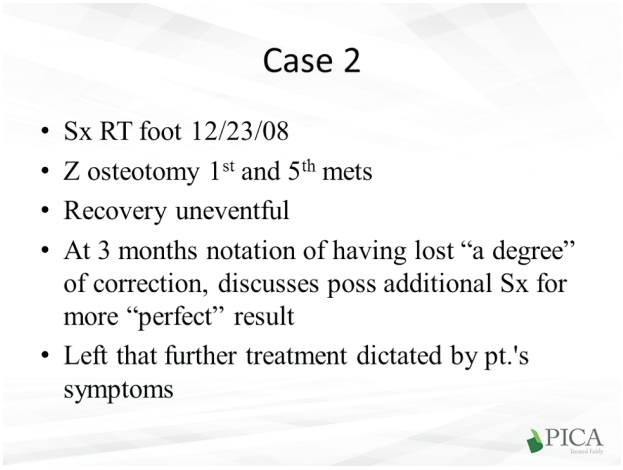

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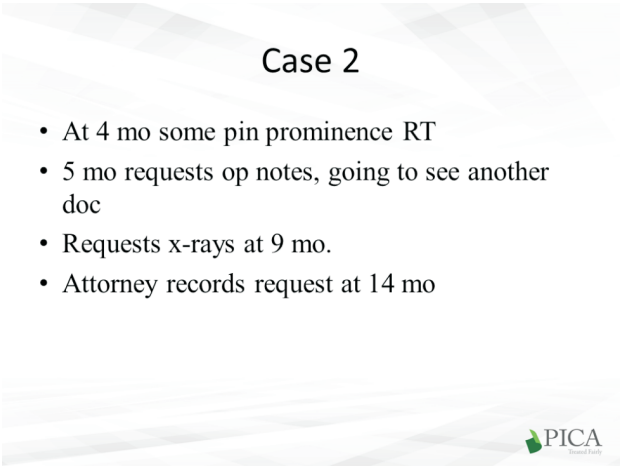

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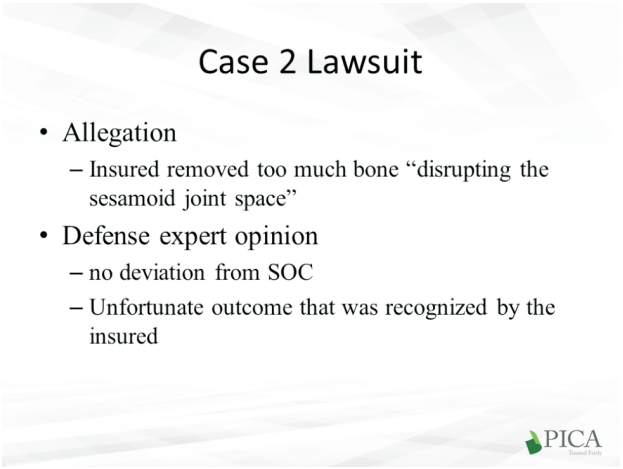

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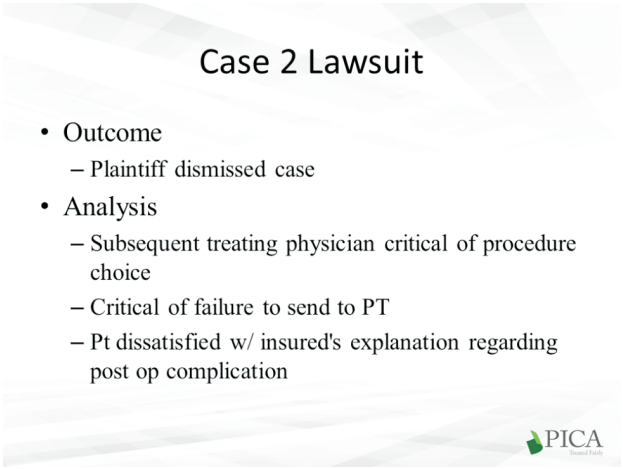

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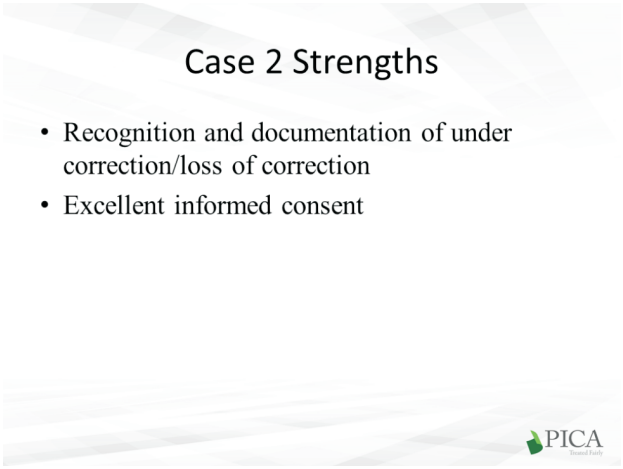

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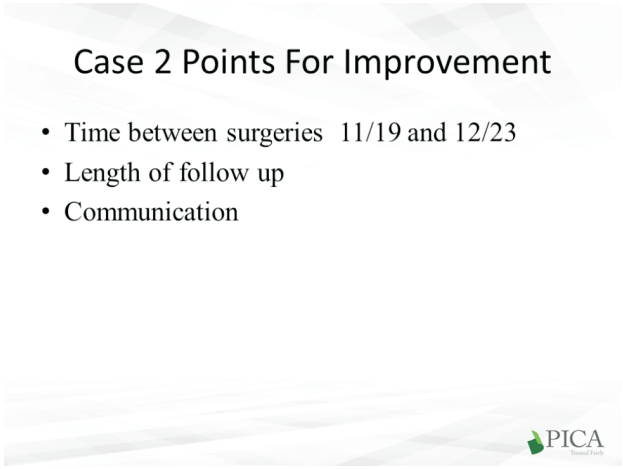

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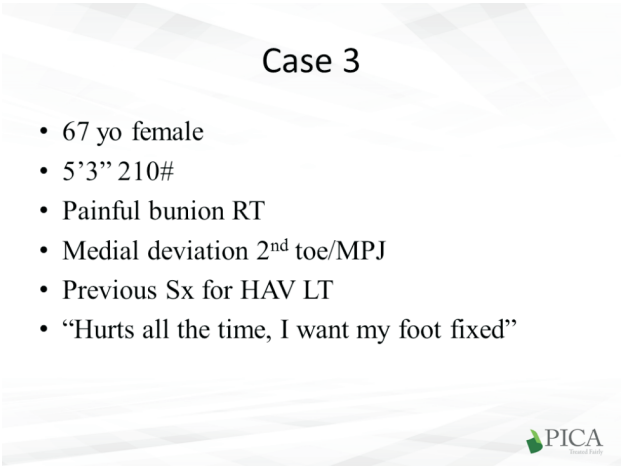

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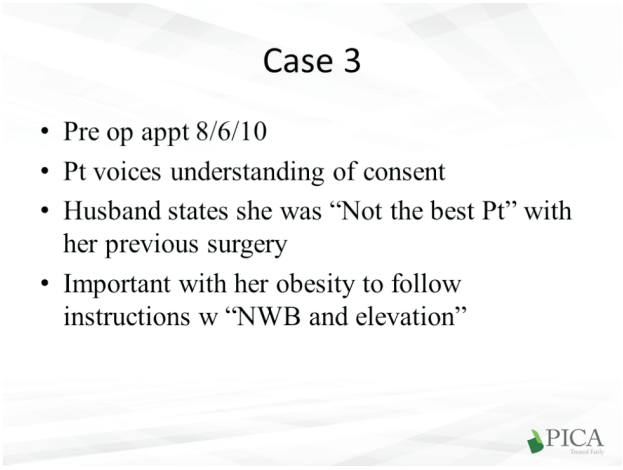


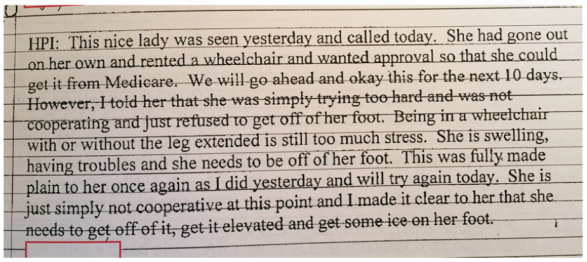
Figure 24.

Case 3

- Sx 8/30/2010
- Austin bunionectomy and Weil 2nd RT
- POV 1 9/7/10
- + edema
- "admits she has been up, making lunches and not following rules as far as protection and elevation"

Figure 25.

Case 3



HPI: This nice lady was seen yesterday and called today. She had gone out on her own and rented a wheelchair and wanted approval so that she could get it from Medicare. We will go ahead and okay this for the next 10 days. However, I told her that she was simply trying too hard and was not cooperating and just refused to get off of her foot. Being in a wheelchair with or without the leg extended is still too much stress. She is swelling, having troubles and she needs to be off of her foot. This was fully made plain to her once again as I did yesterday and will try again today. She is just simply not cooperative at this point and I made it clear to her that she needs to get off of it, get it elevated and get some ice on her foot.

Figure 26.

Case 3

- Sutures removed 2 wks
- Return to shoes 3 wks
- 4 wks postop ROM "a little tight"
- EHL weak
- Rx AROM and PROM exercises

Figure 27.

Case 3

- 7 wks post
- No dorsiflexion strength
- Hallux in plantarflexion
- EHL torn
- Recommends EHL repair or possible fusion

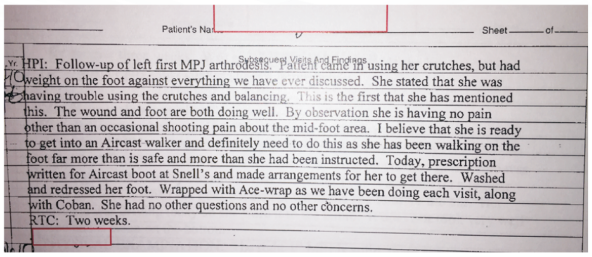
Figure 28.

Case 3

- 11/2/10
- 1st MPJ arthrodesis w plate fixation
- Posterior splint NWB 3 wks
- 3 wk visit note

Figure 29.

Case 3

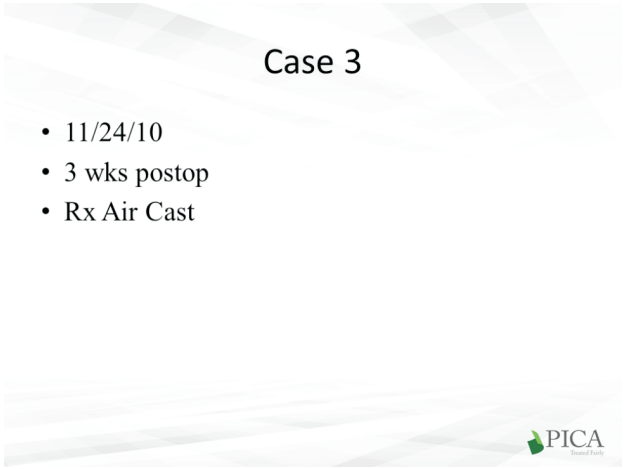


Patient's Na... Sheet ... of ...

Subsequent Visits And Findings

Yr. HPI: Follow-up of left first MPJ arthrodesis. Patient came in using her crutches, but had weight on the foot against everything we have ever discussed. She stated that she was having trouble using the crutches and balancing. This is the first that she has mentioned this. The wound and foot are both doing well. By observation she is having no pain other than an occasional shooting pain about the mid-foot area. I believe that she is ready to get into an Aircast walker and definitely need to do this as she has been walking on the foot far more than is safe and more than she had been instructed. Today, prescription written for Aircast boot at Snell's and made arrangements for her to get there. Washed and redressed her foot. Wrapped with Ace-wrap as we have been doing each visit, along with Coban. She had no other questions and no other concerns.
RTC: Two weeks.

Figure 30.



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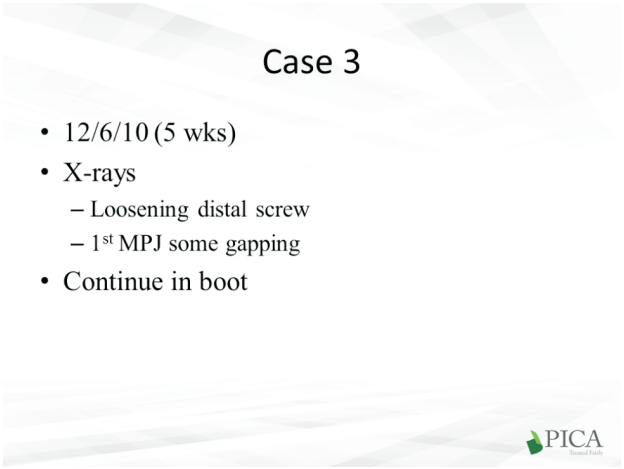

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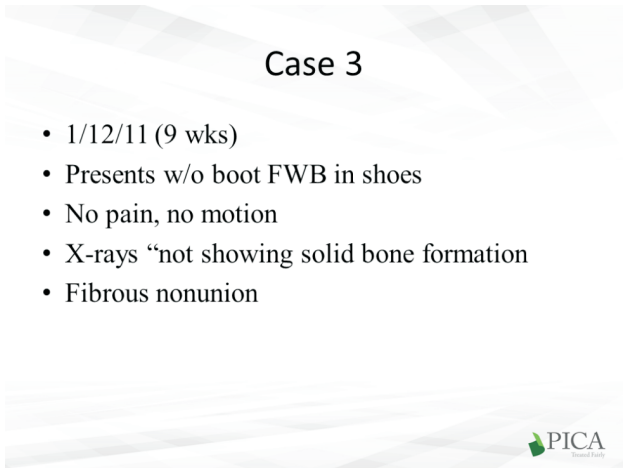

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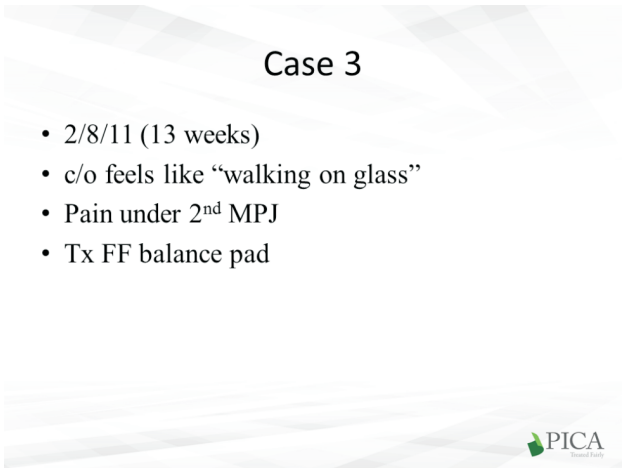

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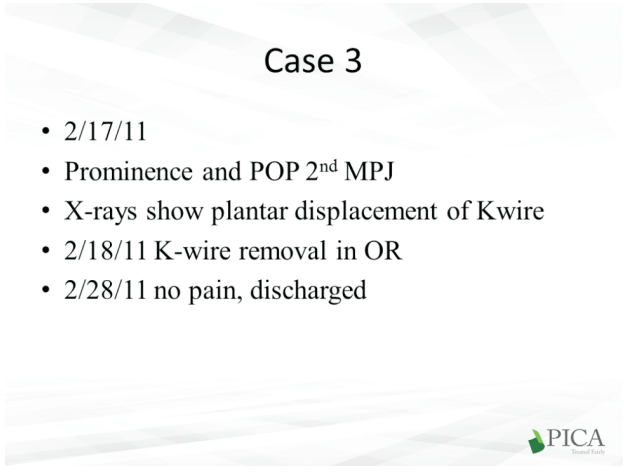

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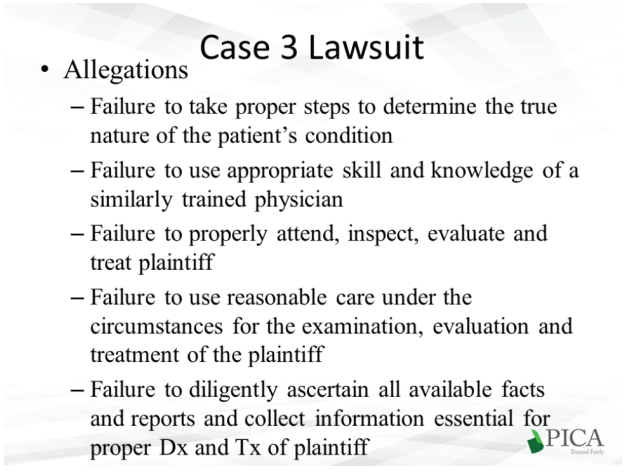


Figure 36.

Case 3 Lawsuit

- Defense expert
  - Opinion that insured met SOC
- Outcome
  - Lawsuit dismissed by pt

Figure 37.

Case 3 Strengths

- Informed consents detailed and thorough
- Drawings and descriptions

Figure 38.

Case 3 Points For Improvement

- Communication
- Tone of documentation
- Pt/procedural selection
- Pre op PT eval.
- Obtain prior records
- Tincture of time

Figure 39.

Case 4

- 59 yo male, 200#
- Painful bunion RT foot and 2nd MPJ
- Hx gout
- Tx labs, colchicine, ibuprofen, inserts
- On f/u labs normal, no improvement on meds
- Subsequent arthritis panel
- MRI
  - No stress fx
  - Severe osteoarthritis 1st and 2nd MPJ's

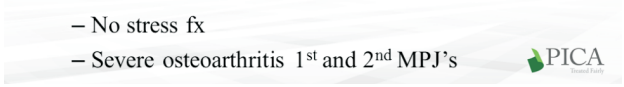


Figure 40.

Case 4

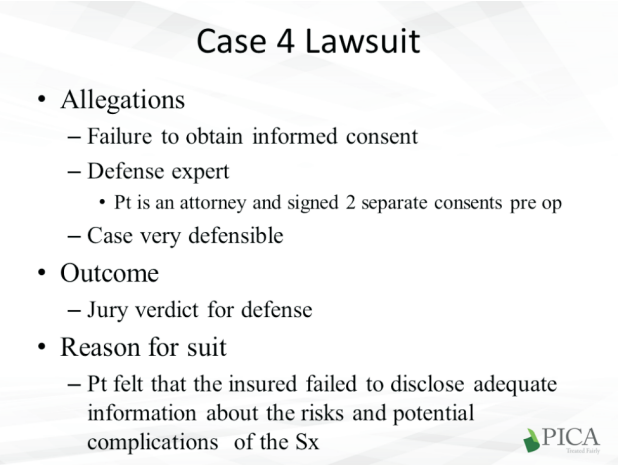
- Sx 12/24/09
- Procedures
  - Lapidus RT
  - Exostectomy 2nd met head
  - PIPJ arthrodesis 2nd RT
  - FDL tenotomy 2nd RT
- Post op
  - NWB CAM walker

Figure 41.

Case 4

- Nonunion Lapidus
- Tx w bone stimulator
- Did not consolidate

Figure 42.



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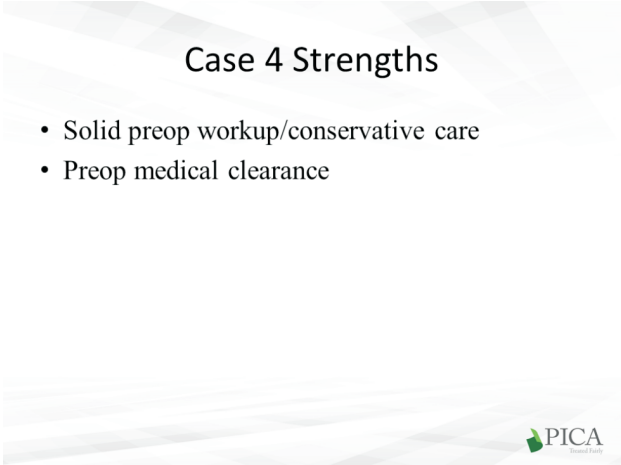

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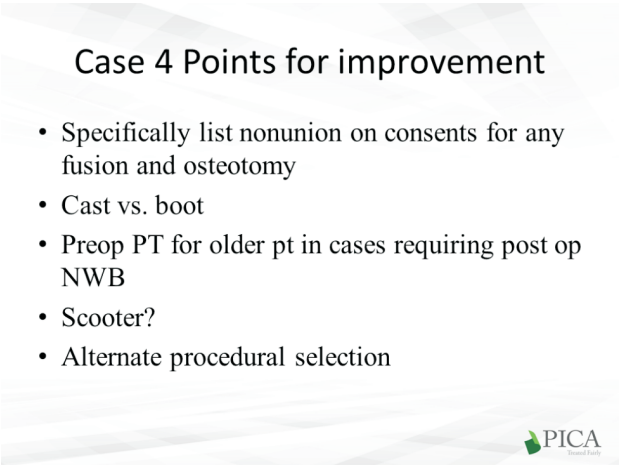

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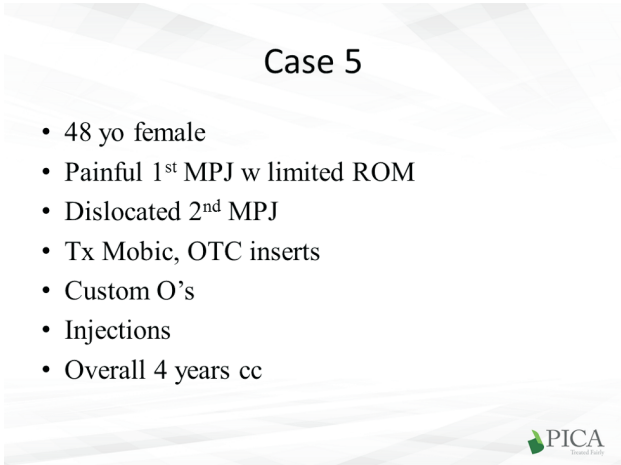

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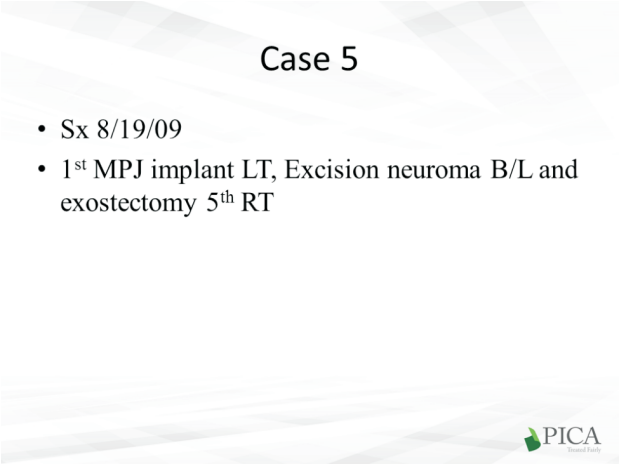

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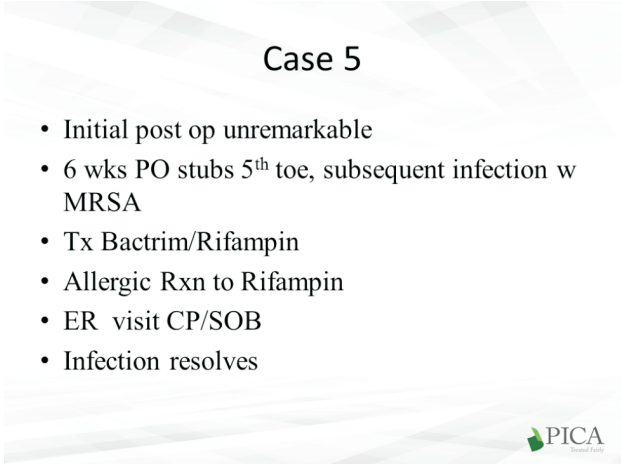


Figure 48.

Case 5

- Sx 8/19/09
- Sub 2 pain and non purchasing hallux 1/19/10
- Tx O's, sling pad
- Continued pain
- Sx recommendation for FHL tagging and Weil
- Pt lost to f/u

Figure 49.

Case 5 Lawsuit

- Allegations
  - Negligence in inappropriately performing Sx
  - Inappropriate surgical procedure
  - Negligent transection of flexor tendon during Sx
- Defense expert felt insured met SOC
  - Insured Tx pt conservatively for several years
  - Performed Sx when pt. reached point of total intolerance to pain
  - Implant surgery was indicated due to severe DJD
  - Sx was appropriately performed
  - Cock-up deformity is a known complication of procedure

Figure 50

Case 5 Lawsuit

- Outcome
  - Jury verdict for defendant

Figure 51.

Case 5 Strengths

- Extensive conservative care
- Thorough informed consent, verbal and graphical

Figure 52.

Case 5 Points for improvement

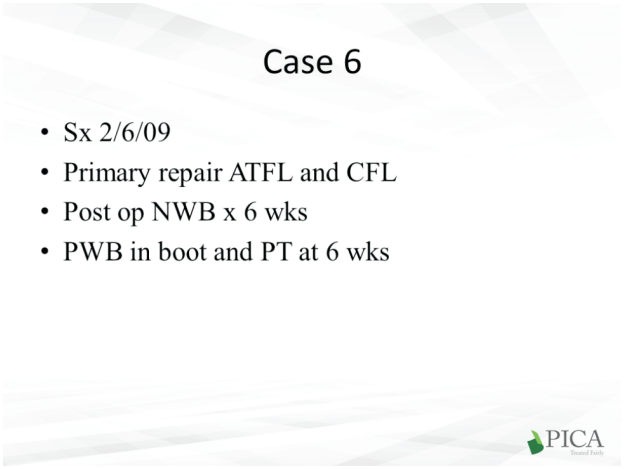
- Did patient truly understand procedure
- Procedure selection in active younger pt
- Degree of bone resection
- Prophylactic tagging of flexor w implant procedures

Figure 53.

Case 6

- 44 yo male
- LT ankle sprain
- Initial Tx NWB post splint x 2 weeks
- Subsequent Tx Unna boot and Fx boot NWB
- Pain decreased at 3 weeks
- Discussed casting vs. Primary repair

Figure 54.



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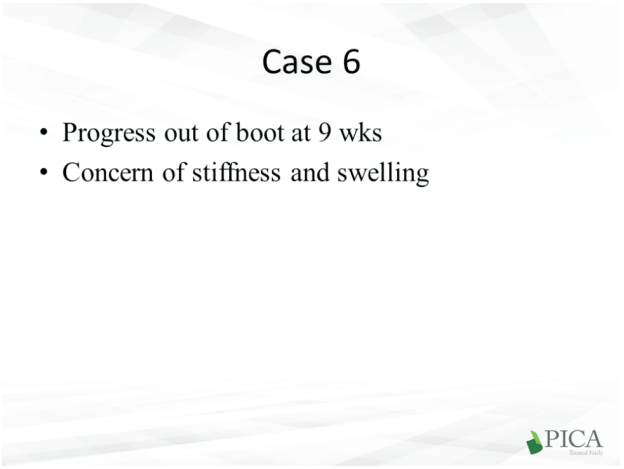

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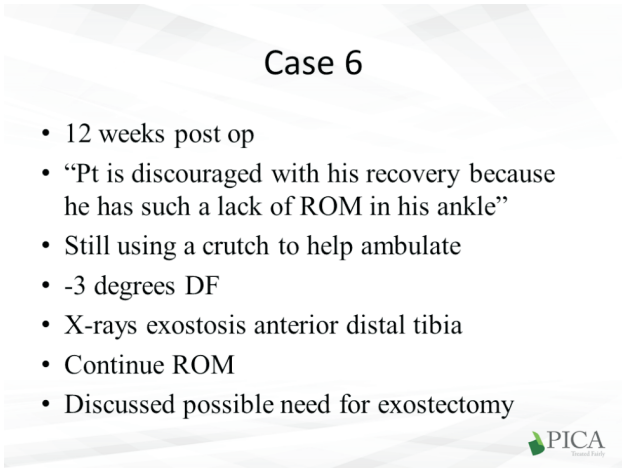

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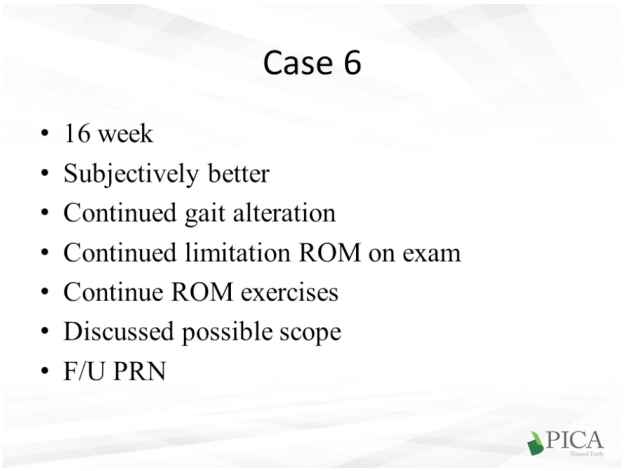

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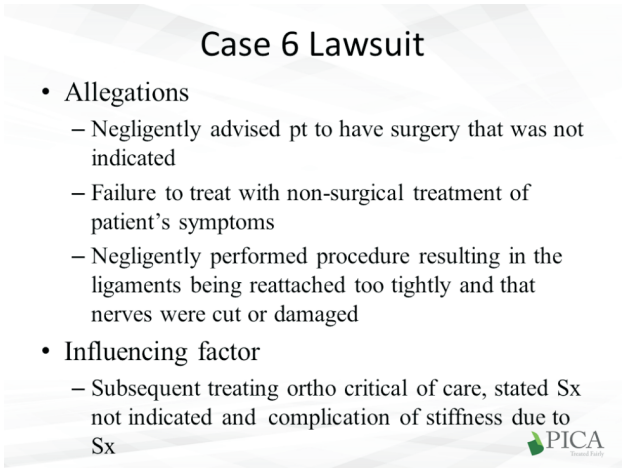

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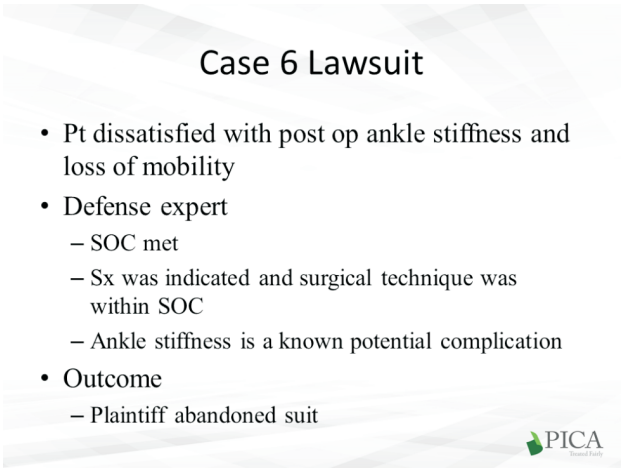

Figure 60.

Case 6 Strengths

- Good documentation
- Consent specifically listed stiffness

PICA

Figure 61.

Case 6 Points For Improvement

- Communication
- Better pre op discussion on length of recovery and risks
- Maintenance of patient care
- Referrals

PICA

Figure 62

Meritless Cases: Why?

- Poor outcome
- Sense of abandonment
- Poor patient selection

PICA

Figure 63.

Risk Reduction Strategies

- Communication strategies
- Ask the patient questions
- Involve the patient's family
- Previous records
- Follow patients to full resolution
- Consultations
- Be wary of additional surgery

PICA

Figure 64.

Figure 65.