

Dear Tom,

I know the U.S. Virgin Islands has a way of dealing with medical malpractice, but I've heard it's long and laborious. Can I just file a suit for fraud against a dentist? Our son was visiting in Spring, 2005, and had some dental work done, to the tune of \$1,100 which supposedly included a root canal. He's now back in New England and last fall the offending tooth, which allegedly had a \$600 root canal became abscessed. My son endured incredible pain, spent hours in an emergency room, and was told he needed a series of procedures to save the tooth, included a root canal! His dentist, an instructor, as the respected Tufts Medical School in Boston, told us "the canal has been accessed, but no root canal was ever performed!"

Our son subsequently had the root canal last year and a crown lengthening, and now needs a crown. The single tooth has a price tag of nearly \$2,000! I wrote the local dentist, explaining my son's discovery, but no reply. Can we file a claim in small claims court to recoup the cost for the root canal that was never performed? Is there a special governing board that could investigate this dentist? I know of other horror stories.

Taking it in the Teeth

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Dear Ms. Teeth:

Dentists in the U.S. Virgin Islands are overseen by the Board of Dental Examiners and certainly your son can file a complaint with the Board. As you have alluded, there is a rigorous policy for filing and review of all medical malpractice claims in the Territory.

Most lawsuits involving dental malpractice are filed because a patient, such as your son, is not happy with the outcome of the procedure that was done. Only 5% of all dental malpractice claims ever make it to court. They are usually settled out of court by a mediator or the dentist's insurer. The settlement agreed upon takes into account the details of the incident and how much pain was involved to remedy the situation.

Before any dental patient retains an attorney to file a malpractice claim, they should sit down and discuss the problem with their dentist. If they are unable to resolve the problem amicably and all alternative avenues have been exhausted -- then proceed with a suit. Your son did do the right thing by not returning to the original dentist for his repair work.

As to your son filing a dental malpractice lawsuit, however, U.S. Virgin Islands law requires a claimant to file a claim with the Medical Malpractice Action Review Committee within two (2) years of the alleged act or the last treatment by the dentist for the condition. As the "supposed" root canal occurred in 2005, your son would be barred from filing a malpractice claim some four (4) years later. An alternative may be to file an action in the Small Claims Division of the Superior Court to recover the "nearly \$2,000" that you may have expended for your son's alternative treatment, as well as other associated expenses.

A word to the wise, seek the advice of attorney with courtroom experience and preferably medical malpractice experience, sooner than later.

Tom