

AND THE DEFENSE WINS

DRI members **K. Justin Hutton** and **Elizabeth Hutton** of the East Tennessee firm of Herndon, Coleman, Brading & McKee, LLP obtained a defense verdict on behalf of a vascular surgeon in *Tanya M. Freeman vs. James R. Evans, M.D.* in the Circuit Court of Washington County, Tennessee on November 23, 2021. The Plaintiff alleged that the physician breached the applicable standard of care by recommending a HeRO Graft for her permanent dialysis access, as she alleged she was not a proper candidate for the device. Further, she alleged that the physician breached the standard of care by placing the device in a vein that had not been properly studied by the manufacturer of the device. Last, she contended that the physician committed medical battery by failing to obtain proper informed consent prior to the surgical procedure. Unfortunately, approximately two (2) months after placement of the HeRO Graft, there was a catastrophic failure when the device broke in two, with a portion of the device migrating into the Plaintiff's heart. She claimed she suffered extensive pulmonary embolisms and other injuries due to the physician's actions. The defense asserted that the physician's recommendations for use of the device and the location of device placement were appropriate and did not cause the catastrophic failure of the device. The physician also asserted that he obtained proper consent from the patient prior to the procedure.

After seven (7) days of trial, the jury returned a unanimous decision in favor of the physician on all counts.