

# LEGAL EAGLE EYE NEWSLETTER

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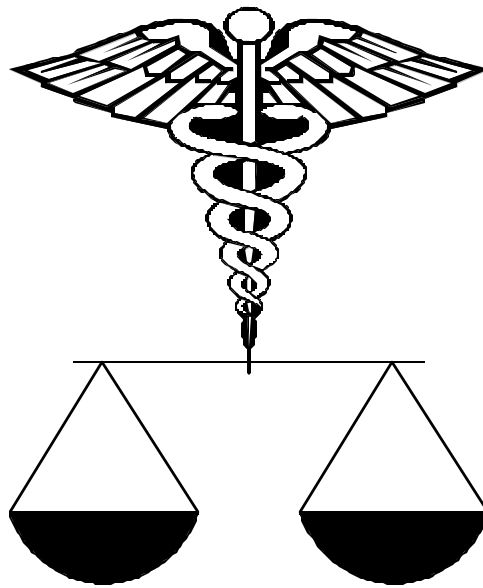
## Nurse Attacked By Alzheimer's Patient Has No Right To Sue, Court Rules.

**A**fter he began to display what was described as bizarre and irrational behavior, the family of an elderly man was forced to admit him to the dementia unit of a healthcare facility, in light of his deteriorating condition, due to their inability to care for him any longer at home, according to the court record.

The Supreme Court of Wisconsin made note of entries from the treatment records at the facility that the man was often disoriented, resistant to care and occasionally combative. When not physically restrained, he often went into other patients' rooms and sometimes resisted being removed by the nursing staff back to his own quarters.

The incident which gave rise to this lawsuit occurred when a charge nurse attempted to direct the man back to his room by touching him on the elbow. He responded by knocking the nurse down and injuring her.

Although the patient, when questioned, stated he had no recollection of this incident, there was no dispute that the incident had occurred and that the nurse had sustained personal injuries as a direct result of the patient's actions. The question for the court was whether the law would permit a nursing caregiver to file a civil personal injury lawsuit for



***A person who has been institutionalized with a chronic mental disability, who does not have the capacity to control his or her actions or to appreciate the consequences of his or her conduct, cannot be held legally liable for payment of damages in a civil personal injury lawsuit for injuries to caregivers who are employed for financial compensation.***

SUPREME COURT OF WISCONSIN, 1996.

monetary damages against an Alzheimer's patient the nurse was employed to care for. The Wisconsin court ruled a nursing caregiver cannot file such a lawsuit.

The court stated it did not want to set the wrong precedent with its ruling. Temporary mental disability or psychiatric illness, such as the effects of post-traumatic stress disorder, often being claimed as a defense in criminal cases, *would not* be recognized as a defense in civil personal injury suits filed by professional caregivers.

However, when chronic mental disorientation and resulting potential for violence are the very reasons a person must be placed in an institutional setting, under the care of paid professional nursing caregivers, according to the court, there is no legal right for those caregivers to sue the person when the possibility of violence materializes.

The court stated its ruling should apply to bar suits by caregivers working in acute-care dementia units, as well as in nursing homes and other long-term care facilities, assuming the patient has been placed there for care for Alzheimer's or other chronic mental disability. **Gould vs. American Family Mutual Insurance Company, 543 N.W. 2d 282 (Wis., 1996).**

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