EMTALA: Patient Had No Actual Proof Of Unequal Treatment.

The patient came to the hospital by ambulance after she began suffering from a right-side headache, slurred speech and numbness and weakness in her left-side extremities. The paramedics' records referred to stroke symptoms.

The patient was seen and released. She went to a different E.R. the next day and was transferred from there to a third hospital's neurological service for treatment of a massive stroke.

The hospital filed affidavits in court from the E.R. physician and the E.R. nurse that the patient was provided the same appropriate emergency medical screening examination that would have been given to any other patient in a similar condition with similar symptoms.

The patient was only able to allege there was disparity in her treatment, with no actual supporting evidence.

UNITED STATES DISTRICT COURT
LOUISIANA
February 5, 2013

The US District Court for the Western District of Louisiana dismissed the patient's lawsuit which alleged violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA).

The EMTALA requires a hospital emergency department to give every patient the same emergency medical screening that any other patient would receive with similar signs and symptoms.

Although the Court had qualms about her assessment and care, the patient gave the Court no actual evidence to work with that proved she was treated differently than other patients. **Mays v. Bracey, 2013 WL 450156 (W.D. La., February 5, 2013).**

Emergency Room: Nurse Did Not Fail To Advocate For The Patient.

The patient was brought to the E.R. by paramedics at 11:45 p.m. with life-threatening gunshot wounds.

The E.R. physician phoned the on-call vascular surgeon. The vascular surgeon's arrival was delayed and the patient did not go into surgery until 2:45 a.m. He died in surgery at 7:00 a.m.

The E.R. nurse repeatedly checked with the E.R. physician and satisfied herself that the E.R. physician was continuing to make phone calls to get the on-call vascular surgeon to come in.

CALIFORNIA COURT OF APPEAL
February 6, 2013

The California Court of Appeal noted for the record that a malpractice lawsuit against the E.R. physician was dismissed as unfounded. This lawsuit against the nursing agency, the E.R. nurse's employer, met the same fate.

E.R. Nurse as Patient Advocate

The Court accepted the testimony of a nursing expert that the E.R. nurse's direct care was appropriate. She continually monitored her patient and fully appreciated the life-threatening nature of his injuries and the need for quick action.

Further, the E.R. nurse fulfilled her legal duty to advocate for her patient by repeatedly checking with the E.R. physician to make sure that he was continuing to make calls to get the on-call vascular surgeon to come to the hospital.

The only trauma surgeon duty at the hospital that night was operating on another gunshot victim at the time.

The Court dismissed the family's nursing expert's opinion that the E.R. nurse was required to go up the hospital's chain of command or to try herself to get a vascular surgeon to come in. **Ramirez v. On Assignment, 2013 WL 443423 (Cal. App., February 6, 2013).**

Discrimination: Court Finds No Valid Basis For Comparison.

A registered nurse was a racial minority and also had been diagnosed with neuropathy and tarsal tunnel syndrome which affected the range of nursing positions she could fulfill.

She was terminated from her employment at the hospital after a long series of disciplinary write-ups for job performance issues. After her termination she sued her former employer for race and disability discrimination.

To prove discriminatory discipline a minority or disabled employee must prove that at least one non-minority or non-disabled person was treated less harshly for the same or nearly identical misconduct.

UNITED STATES DISTRICT COURT
GEORGIA
February 8, 2013

The US District Court for the Middle District of Georgia dismissed her case.

To prove discriminatory employment discipline, a minority or disabled employee must prove that he or she was treated more harshly than at least one non-minority or non-disabled employee whose misconduct was nearly identical in all respects.

Employer's Meticulous Documentation

It is not enough for a victim who claims discrimination to identify a non-minority or non-disabled employee who in general terms also has an attitude problem or attendance or performance issues.

The hospital had so meticulously documented the details of this nurse's and the disciplinary histories of five non-minority, non-disabled nurses disciplined less harshly whom she held up for comparison that it was impossible for the court to see how they were similar enough to support a charge of discrimination. **Jest v. Archbold Med. Ctr., 2013 WL 503071 (M.D. Ga., February 8, 2013).**