

Fall: Nurse Did Not Raise Bed Rail.

The New York Supreme Court, Appellate Division, was satisfied that the evidence supported a verdict finding negligence by the patient's nurse.

The sixty-three year-old patient was recovering from a below-the-knee amputation of his right leg necessitated by his diabetes.

Eight hours after the procedure he fell out of his hospital bed while reaching for his call button. He fractured his hip.

His wife gave a deposition in which she stated the nurse may have neglected to raise the bed rail again when she left the room after emptying his bed pan. If that was the case, in the opinion of the patient's expert witness, it would be a violation of hospital policy that the bed rails were to be raised for fall-risk patients during the time immediately after surgical anesthesia.

The jury awarded \$3,000,000 to the patient's widow after hearing testimony about the patient's medical complications before and after the incident, including chronic renal failure for which he was in dialysis, amputation of the right foot, surgery for his fractured hip, amputation of the left leg after he fell and death from a heart attack. The Court found the jury's verdict excessive under the circumstances and ordered it reduced to \$750,000. **Raniola v. Montefiore Med. Ctr.**, ___ N.Y.S.2d ___, 2011 WL 2555823 (N.Y. App., June 23, 2011).

Battery: Court Upholds Jury's Verdict In Favor Of The Hospital.

A person commits a battery for which he or she can be sued for damages in civil court if

The person had intent to cause harmful or offensive contact with the body of another person;

There actually was offensive contact with the victim which was harmful;

The victim was injured; and

The injury to the victim was caused by the person who committed the battery.

The jury decided that the hospital security guards who were directed by a nurse to prevent the patient from leaving the hospital against medical advice had no intent to cause harmful or offensive contact with the patient.

Blocking a patient from leaving against medical advice is not harmful or offensive contact.

APPELLATE COURT OF ILLINOIS
June 23, 2011

Four days after orthopedic knee surgery the patient became agitated and abusive when he was informed he was going to be discharged from the hospital.

He was upset with the fact he was being discharged and unhappy with the choices of discharge pain medications that the nurse was offering him.

The patient said he was leaving right away and was going to walk home on his own. He lived ten miles away and could barely manage on his crutches.

The nurse followed him down the hall into the elevator and through the main corridor on the ground floor. She or another nurse she asked to help told the hospital security guards on duty on the first floor to keep the patient from exiting.

The security guards informed the patient he was not allowed to leave and stood in his way. They did not grab him or restrict him except by standing in his way.

The patient, on pain medication and barely able to ambulate on crutches, fell trying to get through the revolving door by pushing it along with one of the crutches. He ended up in a wheelchair and was returned to the orthopedic floor by the nurse.

The Appellate Court of Illinois upheld the jury's verdict in favor of the hospital awarding no damages to the patient for civil battery. The jury apparently found no intent by the hospital security guards to cause harmful or offensive physical contact. As hospital employees they were basically caring for the patient by trying to block him from leaving. **Bakes v. St. Alexius Med. Ctr.**, ___ N.E. 2d ___, 2011 WL 2520137 (Ill. App., June 23, 2011).

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