

Defective Hospital Equipment: Court Validates Injured Nurse's Right To Sue.

A surgical nurse sustained a back injury while trying to move a 600-pound surgical microscope and floor stand unit in the hospital where she worked.

Worker's Compensation Law Does Not Rule Out Products Lawsuit

As an employee injured in the course and scope of her employment duties, the nurse qualified for workers compensation. The other side of the coin is that an employee eligible for workers comp, whether or not the employee actually files for workers comp, cannot sue the employee's own employer for an on-the-job injury. However, that does not rule out a lawsuit against a third party whose negligence caused the employee's on-the-job injury.

The nurse filed suit against the manufacturer and distributor of the microscope and microscope stand.

The New York Supreme Court, Appellate Division, accepted the defendant manufacturer's and distributor's expert engineering testimony that there was no defect in the design of the product.

The court also accepted the argument that a manufacturer or distributor has no legal duty to provide warnings to users of such equipment that manually moving such equipment can pose a hazard of injury in the form of lower back strains and sprains.

Manufacturing Defect Nurse Has Right To Sue

However, although the product was generally safe when manufactured according to specifications, this particular unit was not correctly assembled, the court ruled.

After the nurse was injured a hospital maintenance worker was able to make the machine roll easily along the floor without posing a hazard of injury, by replacing a broken wheel caster with which the brand-new unit had been allowed to leave the factory.

Testimony of another nurse at the hospital corroborated that the unit was unexpectedly difficult to move the day it was delivered at the hospital, after the nurse in question was injured and before it was repaired after the fact by the hospital. Wesp v. Zeiss, 2004 WL 2211397 (N.Y. App., October 1, 2004).

Nurse's Latex Allergy: Court Issues Ruling On Complicated Statute Of Limitations Issues.

A nurse was diagnosed with a type-one latex allergy her doctor related to long-term on-the-job exposure to latex gloves.

Slightly more than three years after her diagnosis her lawyers filed a lawsuit against eighteen separate corporate defendants involved in the manufacture and distribution of latex gloves used by healthcare workers.

The Supreme Court of Alabama agreed with the corporate defendants the nurse had no right to sue for strict liability under the state's products-liability law.

However, she still could sue for breach of implied warranty under a different state law which has a four-year rather than three-year statute of limitations.

The nurse's lawsuit was filed more than three years after she was diagnosed with a general allergy to latex.

Three years is the Alabama statute of limitations for strict liability under the products liability law.

Four years is the statute of limitations for breach of implied warranty, so there is still time to make that claim.

SUPREME COURT OF ALABAMA
October 8, 2004

Statute of Limitations

The important lesson is that civil lawsuits to vindicate important rights must be filed within the applicable legal deadline, or those rights, no matter how important, simply expire.

The medical diagnosis of a latex allergy sets the clock running to make the decision whether or not to sue.

In this case the nurse's lawsuit was not thrown out altogether. However, the particular state law with the three-year statute of limitations is more consumer-friendly than the other law with the four-year statute. The proof required to obtain compensation under the latter law may be too high a hurdle, compared to the former law, for the nurse to obtain compensation. Locke v. Ansell Inc., __ So. 2d __, 2004 WL 2260473 (Ala., October 8, 2004).