Elopement: Civil Monetary Penalty Upheld.

The ninety-two year-old nursing home resident had a history of wandering. The nursing facility was aware of that and had a care plan that called for keeping the resident where she could be seen and frequently checking to see that she was still present and accounted for.

After the resident wandered away alone and was discovered some time later walking along a highway, the US Court of Appeals for the Fifth Circuit was not willing to overturn a one-time $5,000 civil monetary penalty imposed on the facility.

The facility claimed that a contractor hired to replace the door-alarm system had turned off the existing system while preparing to install a new system and never told anyone the system was turned off.

Assuming that did happen, the facility still did not fulfill its obligation under Federal regulations to provide adequate supervision and assistance to ensure that the resident's environment remained as free of accident hazards as reasonably possible, the Court said. **Clear Lake Nursing Home v. US Dept. of Health & Human Services, __ F. 3d __, 2010 WL 3528833 (5th Cir., September 13, 2010).**