

Nursing Home Resident Falls

A seventy-six year-old nursing home resident had suffered a stroke which affected the right side of her body. The New York Supreme Court, Appellate Division, noted she came to the nursing home from a rehab facility.

In addition to the residual effects of her stroke, her diagnoses on admission to the nursing home included senile dementia and diabetes. She was assessed as being impulsive and having poor safety awareness. She had fallen at least once at the rehab center and had been in a Posey vest there when unattended.

According to her medical records, the patient had an ankle and foot orthosis, used a cane and needed moderate assistance with ambulation. The court noted for the record it was unclear whether her brace or orthosis ever accompanied her in her transfer from the rehab center to the nursing home.

The patient slid out of her wheelchair to the floor but was not injured. The doctor ordered a wedge cushion. She fell again trying to stand up, so the staff made a point to fasten her seatbelt. She figured out how to unfasten the seatbelt, tried to stand up and fell again. The physician ordered her kept in a geri chair when out of bed, with the chair back laid back almost to supine so she could not stand up.

A staff member raised the back of the geri chair so she could digest her breakfast, and left her that way. She stood up, fell, broke her hip and died following this injury.

The family sued the nursing home for damages for negligence and for punitive damages. The court ruled there were grounds to sue for negligence. The court also ruled this was not a situation calling for punitive damages and the jury would not be allowed even to consider that issue. **Rey v. Park View Nursing Home, Inc., 692 N.Y.S.2d 686 (N.Y. App., 1999).**