Geri Chair Collapses, Family Member Injured: Court Throws Out Lawsuit.

The patient was in the VA Hospital geriatric psych ward because he had Alzheimer's and his wife could no longer completely care for him at home. She did visit almost every day and helped with his personal care. She would move him from place to place in the hospital by pushing on the back of his geri chair.

One day the back of the geri chair gave way and the wife fell to the floor and broke her hip. She sued the VA for negligence.

Under Federal law, a person can sue the Federal government for negligence and the case is decided under state law for the state where the incident occurred, in this case Alabama.

The US District Court for the Middle District of Alabama threw out the lawsuit. There was no proof of negligence.

The nurses at the hospital would check the geri chairs for safety. When a chair was broken and in need of repair they would call the hospital maintenance department.

The nurses themselves sometimes could not get the side levers on the geri chairs to lower the back of the chair to 45° so that the chair could be pushed from behind. When that happened they had to stand behind the chair and force it into the partial-down position.

When this particular chair broke, the patient's wife said she saw a metal pin fall out. The pin should have been secured inside the chair with a cotter pin, but apparently was not.

Proof of Negligence versus Speculation

The courts all say negligence requires proof of negligence, not mere speculation. It could be that the chair was broken, that it was sent to the maintenance department for repair, that the repair person forgot to replace the cotter pin, that the pin slipped out and made the chair a hazard and this was what caused it to collapse.

However, there was no actual proof that a nurse or other hospital staff member knew this particular geri chair was broken or defective or that anyone made it defective by negligently repairing it. The court ruled against the wife's negligence lawsuit. **Prickett v. U.S., 111 F. Supp. 2d 1191 (M.D. Ala., 2000).**

Needlestick: Fear Of Contracting HIV / AIDS Is Not Enough To File A Lawsuit, Court Rules.

An emergency medical technician (EMT) responded to a medical emergency at a medical clinic.

She was handed a red plastic bag used to dispose of contaminated medical waste. The bag had been filled by employees of the clinic as they were dealing with the medical emergency before the EMT arrived at the scene.

The plastic bag contained a used hypodermic needle that was put in the bag by a clinic employee. While the EMT was handling the bag the needle poked through the plastic, punctured the skin of her leg and caused bleeding.

The needle was not tested for HIV.

The EMT had multiple HIV tests over a two-year period which were all negative. Nevertheless, she sued the medical clinic for negligence.

She was not suing her own employer or a co-worker for negligence, as that would not have been allowed by the worker's compensation statutes.

There is no legal basis to sue over a needlestick incident if the victim cannot prove the virus was present and that the manner of contact with the virus was a medically and scientifically accepted channel for the virus's transmission.

US courts hold that fear of the HIV virus, absent a real possibility of infection, is by law unreasonable, that is, it is no basis for a suit.

DISTRICT COURT OF APPEAL
OF FLORIDA, 2000.

The District Court of Appeal of Florida ruled in favor of the clinic. According to the court, even if there was negligence in the handling of a used medical sharp, the majority of US courts would not validate a lawsuit for a needlestick unless HIV was transmitted or there is solid proof HIV was present and there was some actual possibility of the HIV virus being transmitted to the injured party.

Unreasonable fear of HIV, as the courts term it, caused by mere speculation over the possibility of HIV transmission, is not grounds for a lawsuit. **Wilson-Watson v. Dax Arthritis Clinic, Inc., 766 So. 2d 1135 (Fla. App., 2000).**