

Patient Falls In Transfer From Table To Stretcher In O.R.: Court Faults Nurses And Employer Hospital, Says No Expert Witnesses Needed.

The patient was a fit and healthy twenty-eight year-old woman who was having a tubal ligation a few days after giving birth.

When the procedure was done the operating room nurses were moving her off the operating table to a stretcher, per the surgeon's notes, or moving her from one stretcher to another, per the nurses' notes, when something went wrong.

As the patient was tumbling to the floor, one of the nurses grabbed the patient by her right arm, stretching the arm and causing injury.

She was later diagnosed with a nerve palsy of the anterior serratus muscle. She needed physical therapy and had some residual disability.

The patient sued the surgeon and the hospital which employed the nurses. The lower court saw the lawsuit as a medical malpractice case and believed the patient needed expert witnesses to prove her case.

The lower court ordered the patient's attorneys to come forward with the names and qualifications and written reports stating the opinions of their expert witnesses.

The patient's attorneys got a nurse as an expert on standards for operating room nurses. They did not get an expert to testify that the cause of the arm injury was a nurse grabbing the patient as she fell.

The lower court said a medical rather than nursing expert was needed on the standard of care and said a medical expert was required on the issue of causation.

The Superior Court of Pennsylvania reversed the lower court and ruled in the patient's favor.

It said this was not a medical malpractice case but was a case of ordinary negligence that was so obvious that no expert witness was needed to prove negligence or to prove cause-and-effect.

The patient's physicians charted and were willing to testify she was perfectly fine before and had a genuine orthopedic injury after the fall. **Matthews v. Clarion Hospital**, 742 A. 2d 1111 (Pa. Super., 1999).

The patient was helplessly dependent on the care of hospital staff at the time she awoke and found herself injured.

This is not a medical malpractice case. It is a simple lawsuit against a corporation for its employees' negligence. The corporation happens to be a hospital and the employees happen to be nurses.

When a corporation's employee's negligence is not obvious, the plaintiff suing the corporation needs expert witness testimony to prove the corporation deviated from an accepted legal standard of care and to prove the deviation was a substantial factor in causing harm to the plaintiff.

On the other hand, expert testimony is not required when the negligence is so simple and the lack of care and skill is so obvious as to fall within the range of ordinary experience and is comprehensible to nonprofessionals sitting on a jury.

An expert is not needed to prove cause and effect when it is obvious, as it is in this case.

SUPERIOR COURT OF PENNSYLVANIA,
1999.

Gas Embolism: O.R. Personnel All Must Share Blame, Except Circulating Nurse.

A forty-five year-old woman died on the operating table from a nitrogen gas embolism during a diagnostic hysteroscopy. When she went into arrest all the gas and fluid lines were abruptly disconnected as an attempt was made to save her.

This could only have happened because the hysteroscope was hooked up erroneously, that is, there is no question someone in the room was negligent.

The patient was completely helpless. She was under anesthesia.

All the defendants who scrubbed in can point their fingers if they want, but they are all responsible as far as the patient's family is concerned.

SUPREME COURT OF NEW JERSEY,
1999.

The Supreme Court of New Jersey ruled the explanation had to be someone connected the N₂ supply to the fluid drain, and that was unquestionably negligent. All the sterile surgical personnel were assigned portions of the \$2,000,000 verdict.

However, the circulating nurse only opened the packaging on the scope, instruments, supply and drain lines, etc., and connected the N₂ line dropped off the field to the N₂ supply in the operating room.

She had no direct involvement in connecting the tubes and lines on the operative field. She alone was not to blame for this tragic incident, the court ruled. **Chin v. St. Barnabas Medical Center**, 734 A. 2d 778 (N.J., 1999).