Patient Falls In Transfer To Car: Court Finds No Negligence.

In the parking area the patient stood up, but instead of using the "stand, pivot, sit" technique she had been taught, put one leg into the car, fell and was injured.

The patient's lawsuit alleged the CNA should have had at least one more nurse or CNA assisting her and should have used a gait belt with this transfer.

The patient's nursing expert explained what a gait belt is used for and demonstrated its use to the jury.

However, the jury accepted instead the testimony of the CNA who helped the patient that day and an experienced staff nurse from the hospital.

The CNA had taken care of this patient during her stay and knew she was a fall risk based on what she was told in report and the sticker on her wrist band.

Earlier that same morning the CNA had assisted her to the bathroom. The patient was bearing weight fully and could transfer on and off the toilet herself with only minimal stand-by assistance.

The nurse testified the nursing and physical therapy assessments current at the time of discharge indicated minimal stand-by assistance was appropriate.

APPELLATE COURT OF ILLINOIS
August 18, 2014

The patient fell and sustained a hairline fracture to her ankle while transferring from a wheelchair to an automobile in the hospital's parking facility just after being discharged from the hospital.

One hospital CNA was providing stand-by assistance and a parking valet was also present. The patient's lawsuit would later allege a two-person assist with a gait belt was necessary.

The patient had been instructed while in the hospital and during her stay had been using a "stand, pivot, sit" mode for transferring. In this instance, however, she apparently stood up and attempted first to put her left leg into the vehicle, got her limbs tangled and fell.

The patient was sixty-nine years old, weighed over 300 lbs. and walked with what was described as a "waddling" gait. She had fallen and fractured her hip two years before. She was assessed as a very high fall risk on admission to the hospital.

Court Finds No Negligence

The Appellate Court of Illinois upheld the jury's verdict in favor of the hospital, based on the testimony of the CNA and that of a nurse from the hospital.

The nurse testified it is the nurse's responsibility to review the chart, including the nursing assessments, physicians' notes and physical therapists' evaluations to determine the level of assistance needed by a fall-risk patient, and to communicate what is needed by way of assistance to the non-licensed staff caring for the patient.

The CNA testified her decision to help the patient out to the car by herself was based on instructions from the nurse as to the level of assistance that was needed, as she would have done with any other patient in any other situation.

Under the CNA's care this patient earlier on the a.m. of her discharge had borne weight, ambulated and transferred with only one-person stand-by assistance.

The day before it had been documented she was able to ambulate to and from the bathroom and transfer on and off the toilet herself without help. Her physical therapist had evaluated her as needing only minimal assistance. **Thompson v. Katherine Shaw Bethea, 2014 WL 40701906 (Ill. App., August 18, 2014).**

Racial Bias: Court Lets Nurse's Case Go Forward.

A Caucasian nurse worked more than five years in a hospice where her supervisors and most of her coworkers were African-Americans, before she claimed she was forced to quit because of racial hostility directed at her on the job.

The nurse claimed she was often mocked and shunned by her coworkers and given more difficult patient-care assignments by her supervisors and that her coworkers would not assist her with tasks as they usually did with each other.

She complained repeatedly to management, but nothing was done. She resigned, filed a complaint with the US Equal Employment Opportunity Commission and then filed a lawsuit against the hospice.

When the nurse complained to facility management about the other nurses' racial hostility toward her, she was basically told to "Hang in there," and nothing further was done.

That would be sufficient to implicate management with responsibility for the racially hostile environment being created by the nurse's coworkers.

UNITED STATES DISTRICT COURT
ILLINOIS
September 5, 2014

The US District Court for the Northern District of Illinois ruled that management failed to carry out its obligation to investigate and take appropriate remedial action indicated by the results of its investigation.

The fact the nurse was not fired but resigned was not a flaw in her legal case. The law calls it constructive discharge, which is grounds for a lawsuit, when an employee is forced to quit because nothing is done by management about his or her complaints to management of on-the-job racial hostility or discrimination. **Vukelic v. Vitas, 2014 WL 4413772 (N.D. Ill., September 5, 2014).**