

## Surgical Microscope: No Expert Needed, Court Says.

A patient sued the hospital claiming he was burned by the light from the surgical microscope during a lumbar disc procedure.

According to the record in the Court of Appeals of Georgia, this microscope is a technologically advanced system that integrates a surgical microscope and lighting system with digital video recording and the hospital's information infrastructure. The microscope's own computer software controls its lighting features, which include powerful xenon lamps that shine intense ultraviolet light on the patient's body to illuminate the operative field.

The lawsuit alleged negligence by the hospital in neglecting to update the software for the microscope and neglecting to warn the surgeon that the microscope was potentially dangerous.

The Court ruled that the patient's lawsuit could go forward without an expert's report identifying a breach of the professional standard of care by the hospital. This was a case of ordinary, as opposed to professional negligence, for which no expert opinion was necessary. Ambrose v. St. Joseph's Hosp., \_\_ S.E. 2d \_\_, 2014 WL 169870 (Ga. App., January 16, 2014).

## Fall: Court Says Patient's Nursing Expert's Opinion Was Speculation.

***Common sense dictates that people can fall and injure themselves without someone else being negligent.***

***The trial judge did not err by dismissing this case and refusing to send it to the jury just because the patient happened to fall while she was a resident of the defendant nursing home.***

***The patient's family's nursing expert was at best only able to speculate that a bed alarm would have alerted the nurses that her body weight was being lifted off her mattress and that hearing the alarm would have allowed the nurses to prevent her from falling.***

***The expert's opinion is pure speculation that the bed alarm would have prevented the fall and, further, that her broken arm was the cause of her death.***

COURT OF APPEALS OF MICHIGAN  
January 2, 2014

The eighty-two year-old patient was assessed as not a high fall risk when she was admitted to the nursing home.

On her fourth day a nursing assistant found her on the floor in her room at 4:00 a.m. with a broken arm. She was taken to the hospital where the arm was treated.

*C. difficile* infection was diagnosed at the hospital, but the family declined surgery. The patient passed away in the hospital ten days later from the infection.

The family's lawsuit claimed the nursing home's negligence caused the fall and that the broken arm from the fall caused her ultimate demise.

The Court of Appeals of Michigan dismissed the case.

The family's nursing expert had two theories of liability.

It was argued the nursing home attempted to transfer her from her bed without first putting on her orthotic shoe which compensated for the difference in her leg lengths. However, there was no hard evidence that that actually happened.

It was also argued that a bed alarm should have been in use. However, the nursing expert had no factual basis to fault the initial low fall-risk assessment which did not point to the need for a bed alarm.

The Court also said it was pure speculation to make the leap from the fact a bed alarm might have alerted the nurses to the fact she was arising from bed to the conclusion that a bed alarm, more probably than not, would have enabled the nurses to prevent her from falling. Estate of O'Donnell v. Shelby Nursing Ctr., 2014 WL 61141 (Mich. App., January 2, 2014).

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