



CLIENT ADVISORY

November 2007

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PATIENT RESTRAINT CLAIM

The Illinois Supreme Court affirmed in part and reversed in part the decision of the appellate court regarding the plaintiff's negligence complaint against a hospital and members of the hospital's staff. This complaint sought to recover damages for personal injuries plaintiff sustained in a fire which took place while he was involuntarily restrained on a cart while awaiting treatment in the hospital's emergency room. The jury trial returned a verdict in favor of the defendants. The appellate court reversed and remanded for a new trial on the grounds that the circuit court erred in dismissing the plaintiff's claim of the res ipsa loquitur doctrine (described further below). The Supreme Court affirmed. However, the Supreme Court ruled that the appellate court erred when it barred plaintiff from pursuing his claims that defendant should be held liable for failure to search him for contraband.

As background, the plaintiff was brought to the hospital in an intoxicated condition. The charge nurse believed that the plaintiff was in immediate danger of harming himself or others and decided that he should be restrained on a cart and moved to an area away from other patients. The patient was not searched for any contraband. While plaintiff was in this secluded area a fire broke out and the plaintiff was severely burned (the cause of the fire was never determined).

The Court first discussed the res ipsa loquitur doctrine, which permits the jury or judge to draw an inference of negligence if the plaintiff demonstrates that the thing that caused the injury is under the exclusive control of the defendant and that the accident which occurred does not ordinarily happen in the absence of negligence.

The Court also stated that Illinois law authorizes use of the res ipsa doctrine where it can be shown that the defendant was responsible for all reasonable causes to which the accident could be attributed. In addition, Illinois law does not require the plaintiff to show the actual force which initiated the events leading to the injury to rely on this doctrine.

The Court then turned to the plaintiff's claim that the defendant's failure to search fell within the category of ordinary negligence. The plaintiff noted that the hospital failed to adhere to its policies requiring patients to be searched for contraband prior to being placed in restraints. Past court decisions have dictated that hospital policies are among the types of information that may be presented to a jury to assist the jury in determining a hospital's duty to a patient. These policies are not determinative of the standard of care. However, the failure of a hospital to follow its policies can be evidence of a breach of the hospital's duty to its patients. Therefore the court ruled that the plaintiff was entitled to a new trial on both these theories, and the case was remanded for further proceedings. *Almon B. Heastie, Appellee v. Daniela Roberts et al., No. 102428 (November 1, 2007)*

For more information please contact Popovits & Robinson at 708/479-3230.

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