

LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

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Alzheimer's Dementia: Court Says This Caregiver Cannot Sue This Patient For Assault And Battery.

An aide in an assisted-living facility asked her supervisor to change a difficult resident's adult diaper. The supervisor said she would try to reason with the resident. She went to the room and got her assent, but was punched in the jaw and ordered out when she reached for the diaper.

The resident was eighty-three years old. She was admitted after showing erratic, agitated and sometimes aggressive behavior. She was diagnosed with Alzheimer's dementia after this incident.

The supervisor sued the resident. If assault and battery could be proven in civil court, the supervisor as the victim would be entitled to compensation for personal injury out of the resident's income or assets.

A civil lawsuit for assault and battery requires that the defendant commit a wrongful action with an appreciation for the action's natural consequences.

A person who has been found legally incompetent and who lacks full self-control may still be able to appreciate an action's offensive consequences, and if so will be deemed to have legally intended the action.

SUPREME COURT OF COLORADO, 2000.

The jury rejected the lawsuit. The Supreme Court of Colorado agreed the supervisor had no case.

In civil court assault and battery are by definition intentional. The jury must delve into the perpetrator's mental status to decide if the perpetrator could and did appreciate the natural consequences of the wrongful action alleged in the lawsuit.

There is no hard-and-fast rule for Alzheimer's patients. The jury must consider the mental status of any cognitively disabled person sued by a caregiver or by another person. In this case the jury believed this resident could not and did not appreciate the consequences of striking out and so the jury ruled in her favor. ***White v. Muniz, 999 P. 2d 814 (Colo., 2000).***