

Patient Falls: High Seats On Commodes No Substitute For Hands-On Assistance, Jury Says.

A jury in the Supreme Court, Washington County, New York recently awarded \$300,000 as damages for wrongful death in favor of the family of a now-deceased seventy-five year old nursing home resident who struck her head when she fell off the high-rise seat on her commode.

It came to light in court that only one aide was assigned to a floor with twenty five residents when the resident used her call button to summon assistance to use the bathroom.

The one aide on duty was in the middle of helping to another resident and could not respond right away. Just as the aide finally did make it to the deceased's room she heard a loud thud and found the resident on the bathroom floor bleeding from a head injury.

Installing high-rise seats on the commodes, the deceased resident's family's lawsuit claimed, was intended as an alternative to having staff on duty to provide hands-on assistance to residents who needed help on and off the commode.

Beyond that, the seat itself did not fit the particular commode, making it even easier for the resident to fall off.

SUPREME COURT
WASHINGTON COUNTY, NEW YORK
May 12, 2008

The family's lawsuit alleged that the high-rise toilet seat was negligently installed, that is, it was the wrong item and did not fit this particular commode.

Further, state regulations require adequate staffing in long-term care facilities to provide hands-on assistance to residents who require it. A high-rise seat might help a resident get on and off the commode, but the jury's judgment was that that did not justify understaffing or failing to respond promptly to a resident's call for assistance.

The family's lawsuit also alleged the high-rise seat was provided without a physician's order, although it was never established conclusively that an order was required. **Estate of Nolan v. Washington County, 2008 WL 2663267 (Sup. Ct. Washington Co., New York, May 12, 2008).**