Emergency Room: Nurse's Assessment Faulted, But Hospital Ruled Not Liable For Patient's Death.

A patient came to the emergency room with abdominal pain. He had been discharged from the same hospital a day earlier after a lengthy stay. A peritoneal catheter was removed just before his discharge from the hospital.

A nurse assessed him in the ER. His vital signs were elevated. He was placed in an examining room to be seen by a physician. He went into cardiac arrest ninety minutes after arriving in the ER, still waiting for the physician in the examining room, and could not be resuscitated. The autopsy established massive intraperitoneal hemorrhage as the cause of death.

The hospital should have assessed and stabilized the patient more quickly so that he could have been admitted for surgery.

However, the family could not prove it was more likely than not the surgery would have saved the patient.

APPELLATE COURT OF CONNECTICUT, 1997.

According to the Appellate Court of Connecticut, it was wrong not to have quickly and correctly assessed this patient so that he could have been taken immediately to surgery.

However, the family's negligence lawsuit against the hospital did not succeed. The family's expert medical witness was not a surgeon and was not qualified to testify that successful surgery would have been more likely than not. **Wallace vs. Saint Francis Hospital and Medical Center, 688 A. 2d 352 (Conn. App., 1997).**

Employment Discrimination: Court Says Employee Must Prove Case, Employer Need Not Show Absence Of Bias.

The employer is under no obligation to disprove any of the essential elements of an employee's or applicant's job bias claim.

If the employee does not have all the necessary proof of discrimination, the case must be dismissed.

In employment discrimination, the employee must prove each and every essential element of the case:

1. The employee (or applicant) is a member of a protected class of persons. Examples of protected classes are racial minorities and persons 40 years or older;

2. The employee (or applicant) is qualified for the position in question;

3. The employee was subject to adverse employment action, i.e., fired, not promoted or unjustly disciplined, or the applicant was turned down for employment; and

4. Someone outside the protected class was not subject to adverse employment action under the same circumstances, or hired in place of an applicant with the same qualifications.

UNITED STATES DISTRICT COURT, TEXAS, 1996.

In a clinical nurse specialist's age and race discrimination lawsuit, the U.S. District Court for the Southern District of Texas reviewed the latest rulings of the U.S. Supreme Court and U.S. Circuit Court of Appeals on the subject of employment discrimination, before rending its own decision.

The court ruled that it is still absolutely essential for the person making a claim of job bias to prove all of the essential elements of the case. Allegations of bias leveled against the employer will be dismissed by the court if the employee cannot prove the allegations.

In this case, a clinical nurse specialist claimed that a temporary assignment to staff-nursing duties and eventual reassignment as a clinical specialist in another department amounted to a demotion.

The court stated there was no question the nurse, an African-American who was just over forty at the time, was a person entitled to be protected from employment discrimination by Title VII of the U.S. Civil Rights Act.

Her record of performance on the job and her professional achievements as a nurse were nothing short of excellent, the court felt. However, according to the court, her employment discrimination case had a fatal flaw. The nurse claimed it was for the hospital to come up with the evidence to prove that the hospital had not treated Caucasian and/or younger persons better than her in respect to the specific areas of concern she had raised in her lawsuit.

On the contrary, the court ruled that the law says that it is up to the person making the discrimination claim to have specific, concrete evidence that non-minorities or younger persons have been treated more favorably by the employer. Without such proof, the court must dismiss of the case. **Skinner vs. Brown, 951 F. Supp. 1307 (S.D. Tex., 1996).**