

## Patient Falls From X-Ray Table: Court Says Hospital Is Liable.

**A** patient was left alone momentarily by a hospital orderly on a rolling x-ray table. She fell off the table, landed on her head and sustained injuries for which she sued the hospital.

At the moment the patient fell, the table was not being held securely in place, no one was present with the patient, and the wheel brake had not been set.

**Leaving a patient alone on an x-ray table or on a rolling hospital gurney, even for a moment, involves an exercise of professional judgment, for which a hospital can be held liable if the patient falls and is injured.**

**Any time hospital personnel decide to leave a patient unattended, they must take the particular patient's condition into consideration, including the patient's age, state of alertness and the nature of any injuries or disease the patient has.**

CALIFORNIA COURT OF APPEAL, 1996.

It was not altogether clear just how the patient happened to fall, but that did not matter to the California Court of Appeal in rendering a decision in favor of the patient's right to sue the hospital.

Hospital personnel, licensed and non-licensed, have the professional responsibility to take all necessary steps for the patient's security and safety, including at all times being aware of what needs to be done. A patient cannot be left alone, even momentarily, unless the patient's condition is fully known and all steps have been taken to insure the patient's safety. **Belamy vs. Central Valley General Hospital**, 57 Cal. Rptr. 2d 894 (Cal. App., 1996).

## Employment Law: Disability Benefits Application Bars Discrimination Claim.

**A former employee who has applied for disability benefits from the Social Security Administration (SSA) cannot at the same time claim to be a victim of unlawful disability discrimination in employment.**

**To apply for SSA disability benefits, it is necessary to certify under oath that one believes oneself to be completely unable to work due to a disability. Medical documentation must also be supplied in good faith in support of the claim that the person in question is totally unable to work due to a disability, to qualify for SSA.**

**To support a claim of disability discrimination in employment, the victim must be able to establish that he or she is a qualified individual with a disability.**

**A qualified individual with a disability, by definition, is a person who can, with or without reasonable accommodation, perform the essential job functions of the employment position he or she holds or desires.**

**Claiming SSA disability benefits is incompatible with being a qualified individual with a disability.**

UNITED STATES DISTRICT COURT,  
SOUTH CAROLINA, 1996.

**T**he U.S. District Court for South Carolina noted that the employee in question, "... virtually from the inception of her employment, complained about her work environment." The hospital administration attempted to work with her, first by transferring her from a technician position in vascular intensive care, then to a clerical position in patient accounts, then to facilities management, and then to social services, all in a fifteen month period.

During this fifteen month interval, the employee was granted medical leaves of absence to receive outpatient treatment for depression which her physicians certified was expressed in physical manifestations. Each job change began with a medical leave for treatment. Then came a physician's statement the employee could not return to her old position due to stress and depression with physical signs. Then came a transfer to a new position, followed by another medical leave, and so on.

The employee was terminated while out on medical leave. She then applied for Social Security SSA disability benefits. She certified to SSA that she was totally disabled from working. She supported her SSA claim with documentation from her psychiatrist and a clinical social worker that she suffered from post-traumatic stress disorder and severe depression. The medical documentation supported her claim to be totally unable to work.

The former employee also sued her former employer for disability discrimination over her termination. The court threw out her lawsuit. The court did not have to consider whether the hospital had or had not made sufficient efforts to accommodate this employee's condition. Because the employee had herself certified she was totally unable to work, in support of her SSA application, she could not at the same time claim she was a qualified individual with a disability, as defined by law, the court ruled. **Hindman vs. Greenville Hospital System**, 947 F. Supp. 215 (D.S.C., 1996).