

Patient Falls In Hall While Being Escorted By Aide: Hospital Ruled Liable.

The court record in the Missouri Court of Appeals set out in detail how the incident happened.

A pharmaceutical sales representative stopped at a clinic office, then at a nurse's station, then went into the med room adjacent to the nurse's station to inventory drug stocks on hand. She left her briefcase in the hallway.

A ninety-two year old patient and her sister arrived in a patient waiting area, checked in, and a medical assistant was summoned and told to escort them to the clinic office where the patient had an appointment.

The patient was elderly and had osteoarthritis, but could walk without a cane or a walker or another person holding her. However, her vision was quite poor.

The medical assistant walked just behind her and to her right. As they came around a corner from one hallway to the hallway where the clinic office was located, the patient tripped and fell over the briefcase that had just been left there on the floor. She broke her hip.

The court ruled both the hospital and the pharmaceutical company were at fault, and divided responsibility 40% - 60% .

In general terms, the owner of business premises, according to the court, has the right to expect that persons making use of the premises will make themselves aware of hazards which are open and obvious, and the owner is not responsible if they do not.

However, healthcare facilities are an exception to the general rule. The patient's condition must be taken into consideration. The patient's potential deficits with regard to her vision and ability to ambulate safely were the very reasons an employee was assigned to assist her. At the point he began to escort her, it was the employee's duty, not the patient's, to perceive open and obvious hazards, and to see that the patient did not sustain injury. **Morrison vs. St. Luke's Health Corporation**, 929 S.W. 2d 898 (Mo. App., 1996).

A healthcare worker who escorts an elderly patient who has diminished vision is responsible for seeing an object on the floor, for appreciating that it poses a hazard to the patient, and for making sure the patient does not trip over it.

It must be anticipated because of the patient's advanced age and attendant physical problems that the patient's powers of observation are not the same as those of healthcare personnel assisting the patient with ambulation.

A pharmacy sales rep left her briefcase in the hall near a clinic office. A ninety-two year old patient, who could walk, but had poor vision and was being escorted by a medical assistant, tripped and fell on the briefcase and broke her hip. The patient herself was not at fault. The the medical center was 40% at fault and a pharmaceutical sales representative was 60% at fault.

This was not a case of professional malpractice. No affidavit from a medical expert was needed prior to filing the lawsuit; no expert witness was needed to testify at trial.

MISSOURI COURT OF APPEALS, 1996.

Visitor Steps Off Curb In Parking Lot, Falls: Hospital Not Negligent.

Just because a visitor happens to be on the hospital's premises when the visitor steps off a curb and falls does not make the hospital liable to the visitor in a personal injury lawsuit, according to the Supreme Court of Alabama. A visitor who sues for personal injuries from a slip-and-fall must prove that the hospital was negligent, and that the hospital's negligence caused the visitor to fall.

A hospital visitor is considered by law to have come to the hospital at the hospital's invitation, assuming the visitor is there to call upon a patient, during regular visiting hours, and remains in the parts of the hospital premises that are open to visitors.

A hospital has a legal duty of reasonable care for a visitor's safety while the visitor is visiting.

However, the mere fact a visitor is injured on the hospital's premises is not sufficient by itself to support a personal injury lawsuit. The visitor must prove the hospital was negligent.

SUPREME COURT OF ALABAMA, 1996.

The hospital has no obligation to come forward with proof that the hospital was not negligent, nor must the hospital prove the visitor or some other party was to blame. Accidents truly do happen.

According to the court, if the visitor cannot produce proof in court that the hospital was negligent, the visitor's personal injury lawsuit must be dismissed. **Wooten vs. Houston County Health Care Authority**, 681 So. 2d 149 (Ala., 1996).