

Male vs. Female Confrontation: No Gender Bias.

The hospital's Director of Quality and Accreditation, an RN, went to the emergency department and found it deserted. All the staff were assembled elsewhere for a mock hostage drill. A solitary walk-through of the department revealed some compliance issues including a filled unlabeled syringe left out on a desk.

She went to the room where staff were assembled and began bringing her issues to their attention. Soon she was interrupted by a male RN who got close to her face and shouted at her that she was offensive and crazy and everyone knew it. The two had more personal run-ins on the job before the female nurse resigned.

The US District Court for the Southern District of West Virginia dismissed the gender discrimination case the female nurse filed against her former employer.

No Evidence that Gender Was an Issue

Negative interaction on the job between male and female coworkers does not necessarily imply gender bias.

The Court saw no evidence of gender bias as the root issue behind the male nurse's action that day or their subsequent hostile interactions or hospital management's handling of the situation. Lieving v. Pleasant Valley, 2015 WL 1528391 (S.D. W.Va., April 2, 2015).

Mock Hostage Drill: Terrorized Nurse Has The Right To Sue.

The police officer was not acting in his official capacity when he began terrorizing the nurse at gunpoint. He was retained privately by the nursing home's corporate home office.

However, as the drill progressed he identified himself to the nurse as a police officer. That was supposed to allay her anxiety.

From that point on he was acting under color of legal authority as he continued to detain and terrorize the nurse. That gave the nurse grounds to sue him for violation of her civil rights.

The nurse can sue her own employer for an intentional assault orchestrated by her own employer's corporate home office which was in no way part of a registered nurse's customary job duties.

UNITED STATES DISTRICT COURT
COLORADO
May 5, 2015

A registered nurse was taken hostage at gunpoint at her job in a nursing home. It turned out to be a surprise drill planned by the nursing home's corporate home office to alert employees to the "real world" possibility of an armed-perpetrator incident at a company nursing facility.

The perpetrator turned out to be a local police officer retained privately by the nursing home's corporate owner to act the part of the terrorist. He revealed his true identity to her while the nurse was on her knees begging and pleading for her life.

The nurse sued the officer, the corporate owner and the local administrator, human resources director and nursing director for mental anguish and emotional distress. The US District Court for the District of Colorado ruled the nurse could sue the police officer and her own corporate employer, but not her supervisors.

Workers Compensation Is No Bar To Lawsuit for Intentional Assault

As a general rule an employee cannot sue his or her employer for harm or injury arising out of and in the course of employment. However, it is not within the normal course and scope of a registered nurse's employment to be held at gunpoint in a hostage situation and have to plead for his or her life, the Court ruled.

Workers compensation benefits are the exclusive legal remedy for on-the-job harm or injury, as a general rule. The general rule, however, does not apply to an intentional assault upon an employee at the employer's direction. Meeker v. Life Care, 2015 WL 2128498 (D. Colo., May 5, 2015).

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E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher
PO Box 4592
Seattle, WA 98194-0592
Phone (206) 440-5860
Fax (206) 440-5862
kensnyder@nursinglaw.com
www.nursinglaw.com

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