

Operating Room Surgery Hospital Patient Falls

The patient was a fit and healthy twenty-eight year-old woman who was having a tubal ligation a few days after giving birth.

When the procedure was done the operating room nurses were moving her off the operating table to a stretcher, per the surgeon's notes, or moving her from one stretcher to another, per the nurses' notes, when something went wrong.

As the patient was tumbling to the floor, one of the nurses grabbed the patient by her right arm, stretching the arm and causing injury. She was later diagnosed with a nerve palsy of the anterior serratus muscle. She needed physical therapy and had some residual disability.

The patient sued the surgeon and the hospital which employed the nurses. The lower court saw the lawsuit as a medical malpractice case and believed the patient needed expert witnesses to prove her case. The lower court ordered the patient's attorneys to come forward with the names and qualifications and written reports stating the opinions of their expert witnesses.

The patient's attorneys got a nurse as an expert on standards for operating room nurses. They did not get an expert to testify that the cause of the arm injury was a nurse grabbing the patient as she fell.

The lower court said a medical rather than nursing expert was needed on the standard of care and said a medical expert was required on the issue of causation.

The Superior Court of Pennsylvania reversed the lower court and ruled in the patient's favor. It said this was not a medical malpractice case but was a case of ordinary negligence that was so obvious that no expert witness was needed to prove negligence or to prove cause-and-effect.

The patient's physicians charted and were willing to testify she was perfectly fine before and had a genuine orthopedic injury after the fall. **Matthews v. Clarion Hospital**, 742 A. 2d 1111 (Pa. Super., 1999).

The patient was helplessly dependent on the care of hospital staff at the time she awoke and found herself injured.

This is not a medical malpractice case. It is a simple lawsuit against a corporation for its employees' negligence. The corporation happens to be a hospital and the employees happen to be nurses.

When a corporation's employee's negligence is not obvious, the plaintiff suing the corporation needs expert witness testimony to prove the corporation deviated from an accepted legal standard of care and to prove the deviation was a substantial factor in causing harm to the plaintiff.

On the other hand, expert testimony is not required when the negligence is so simple and the lack of care and skill is so obvious as to fall within the range of ordinary experience and is comprehensible to nonprofessionals sitting on a jury.

An expert is not needed to prove cause and effect when it is obvious, as it is in this case.

SUPERIOR COURT OF PENNSYLVANIA,
1999.
