

Shower Chair Breaks: Court Allows Lawsuit To Go Forward.

A paraplegic was a patient in the hospital for treatment that was not specified in the court record.

The court record did indicate, however, that the patient was independent in his activities of daily living such as transferring himself from his wheelchair to a bed or another chair.

On the morning of his scheduled discharge he asked to take a shower. A nurse placed a shower stool in his shower and allowed him to transfer independently to the shower stool. After he sat on the stool and leaned back, the back broke off and he fell against the shower stall wall on his way to the floor, injuring his hip.

The cause of his injury was one or more of the metal screws holding on the back of the shower stool had rusted from exposure to moisture in the shower. The patient sued the hospital and the manufacturer of the shower chair.

The Court of Appeal of Louisiana

This is a case of ordinary negligence, not medical malpractice.

COURT OF APPEAL OF LOUISIANA
January 25, 2006

ruled that this was not a case of medical malpractice as far as the hospital was concerned. It was a case of ordinary negligence based on the hospital's failure to inspect the shower chair for moisture-related deterioration which could pose a risk of harm to a patient.

The legal significance is that the patient would not be required to submit expert medical testimony to a pre-lawsuit medical review panel, as in a medical malpractice case, and would not need expert testimony when the case went to trial. Wilson v. Invacare Corp., __ So. 2d __, 2006 WL 167675 (La. App., January 25, 2006).