

Patient Falls: Private-Duty Sitter Does Not Lessen Nursing Home's Duty.

The patient was admitted to a nursing home from the hospital following elbow surgery. He had had a stroke and had been diagnosed with Alzheimer's, Parkinson's and diabetes.

He fell out of bed only an hour after settling in at the nursing home. When the family phoned a few hours later to check on him and were informed he had fallen out of bed, the family got a private-duty sitter from an agency at their own expense to go to the nursing home and watch him.

The sitter arrived at 8:30 p.m. that same evening. He stayed with the patient until 10:30 p.m. when he decided to take a meal break. The sitter later said he did tell one of the nursing home's aides he was taking a break before he left the patient's bedside.

Private-Duty Sitter Left the Patient's Beside Patient Fell Out of Bed

At 10:55 p.m. the patient was found on the floor with a broken hip.

The jury in the Circuit Court, St. Lucie County, Florida returned a verdict of \$654,541.52 against the nursing home and found the sitter and his agency not at fault.

The rationale for the jury's verdict was that a nursing home has the basic responsibility for the patient's care and cannot delegate that responsibility away.

It was legally irrelevant whether the sitter did or did not inform a nursing home employee he was going on break, as was disputed in the lawsuit, because the nursing home retained full responsibility for the patient whether the sitter was present at his job, away from the bedside with good cause or absent without good cause.

The nursing home apparently did not have liability insurance to pay the verdict, while the sitter and his employer were fully covered, but that was likewise irrelevant.

Jilton v. Family Private Care, 2007 WL 2684978 (Cir. Ct. St. Lucie Co. Florida, June 14, 2007).