

Hip Fracture: Nursing Home Not Liable Unless Actual Negligence In Treatment Can Be Proven.

The District of Columbia Court of Appeals recently dismissed a negligence lawsuit filed against a nursing home by the court-appointed legal guardian of an elderly nursing home resident.

The suit alleged that negligence in the handling of the resident had caused her hip to fracture. Specifically, shortly before the resident's hip fracture was detected by the professional nursing staff at the facility, the resident had been transferred from a shower chair back to her bed by one nurse's aide acting alone without assistance, in violation of the nursing home's policy. Policy at the facility clearly stated that two aides were needed every time a resident was to be lifted.

The physician who treated the resident at the hospital where she was taken for hip surgery testified there were multi-

The mere happening of an adverse result during a total-care patient's residence in a nursing home or skilled nursing facility does not imply legal negligence.

This seventy-two year old resident had severe osteoporosis and thyroid disease, and took Dilantin.

The court dismissed the case. It would be pure speculation to find that a caregiver's negligence had caused her hip fracture.

DISTRICT OF COLUMBIA
COURT OF APPEALS, 1995.

ple medical causes for the fracture: a twisting motion followed by an impact, the severe osteopenic condition of the resident's bones, her chronic thyroid condition, and her medications.

There was no direct evidence that the solo transfer of the resident had fractured her hip. There was no direct evidence the twisting and impact did not occur during her regular daily activities. And there was no direct evidence it was not a spontaneous fracture, according to the court.

The court ruled it would not be proper to allow a civil jury to hear the case and engage in speculation or conjecture as to the cause of this resident's hip fracture. Thus, the court concluded it had to dismiss the suit. **Bunn vs. Urban Shelters and Health Care Systems, Inc., 672 A. 2d 1056 (D.C. App., 1995).**

