

# VIRGINIA LAWYERS WEEKLY

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## Nursing home patient dies after CNA drops her

### Confidential Settlement

Plaintiff's decedent was admitted to defendant nursing home facility on June 13, 2003, with the following diagnoses: congestive heart failure; chronic obstructive pulmonary disease; osteoporosis; spinal stenosis; anxiety disorder and Alzheimer's Disease at the age of 87.

While a resident at the nursing home, plaintiff's decedent had developed contractures of the joints and a lack of mobility which the nursing home staff recognized by ordering that plaintiff's decedent required "extensive assistance" and "(two or more) 2+ persons" to physically assist with bed mobility; and "total dependence" and "(two or more) 2+ persons" to physically assist with transfers between bed and wheelchair through the Minimum Data Sheet signed as complete on Feb. 29, 2008.

The Activities of Daily Living (ADL) flowcharts for plaintiff's decedent from Jan. 2008 through April 2008 reported that one person assisted transfers on at least 20 occasions. On March 17, 2008, a CNA noticed a bruise on resident's left elbow approximately 10 x 10 x 0.1 cm in size. Two days later, a LPN noticed an "unexplained new bruise on her left back elbow" as well as three scratch marks on resident's right upper arm. On March 28, 2008, a "new bruise" was noticed by the attending nurse on resident's left wrist and that an investigation was "in progress." In March 2008, a CNA was given disciplinary action for rough handling of plaintiff's decedent and ordered NOT to provide care or assistance to plaintiff's decedent any longer.

On April 13, 2008, the facility's work schedule indicated



ZYDRON



GILL



SIX

that the same CNA was assigned to care for plaintiff's decedent, including but not limited to providing assistance with activities of daily living and transfers. That same day, this CNA attempted solely to transfer plaintiff's decedent from her bed using a Hoyer lift and dropped plaintiff's decedent from the Hoyer lift from approximately two feet off the floor resulting in plaintiff's decedent hitting her left forehead on the corner of the lift, causing a 2 cm gash on her head, and approximately "one cup of blood under her head." Plaintiff's decedent complained of pain in her left leg after being dropped, but defendants did not address the pain until four days later on April 17. X-rays confirmed a "fracture of her distal femur."

Plaintiff's decedent was confined to her bed, in constant and "unbearable" pain and seemed to be "in a trance" with minimal verbalization or eye contact and her health rapidly declined. On July 19, 2008, plaintiff's decedent died as a result of complications from being dropped.

[10-T-193]

**Type of action:** Medical malpractice - nursing home neglect

**Injuries alleged:** Wrongful death

**Name of case:** Confidential

**Court:** Confidential

**Tried before:** Mediation

**Name of mediator:** Thomas S. Shadrick

**Verdict or Settlement:** Settlement

**Amount:** Confidential

**Date:** Oct. 5, 2010

**Demand:** \$925,000

**Highest Offer:** \$0 prior to mediation

**Plaintiff's Attorneys:** John E. Zydron, C. Stewart Gill Jr. and Catherine M. Six, Virginia Beach