



## Jonathan Rosenfeld's Nursing Homes Abuse Blog

# Tennessee Court Helps Establish Standard Of Care In Nursing Home Negligence Cases

Posted by [Jonathan Rosenfeld](#) on February 22, 2011

An important court decision Tennessee Supreme Court decision helps clarify what is necessary for injured parties to prove their care in a nursing home negligence lawsuit. The case stems from the lawsuit initiated by Kimberly S. French, the daughter of [Martha S. French](#). Ms. French brought a wrongful death case against the Stratford House nursing home alleging:

- Ordinary negligence
- Negligence per se based on violations of state and federal nursing home regulations
- Violations of the Tennessee Adult Protection Act

In response to the lawsuit, the defendant nursing home filed a motion for partial summary judgment, dismissing the negligence per se and Tennessee Adult Protection Act claims in addition to the claim for punitive damages. The Court of Appeals affirmed in part (classifying the ordinary negligence claims as medical malpractice claims), but vacated the order dismissing the punitive damages claim. The administratrix of the estate appealed.

Jonathan Rosenfeld represents victims of nursing home abuse and neglect throughout the country. For more information please visit Nursing Homes Abuse Blog ([www.nursinghomesabuseblog.com](http://www.nursinghomesabuseblog.com)), Bed Sore FAQ ([www.bedsorefaq.com](http://www.bedsorefaq.com)) or call Jonathan directly at (888) 424-5757 ([www.rosenfeldinjurylawyers.com](http://www.rosenfeldinjurylawyers.com)).

Martha French was 54-years-old when she suffered her second [stroke](#) and was admitted to Highland Manor Nursing Home in 2000. After three years, Ms. French's daughter arranged for her to be transferred to Stratford House, a long-term care facility in Chattanooga, TN.

At the time Ms. French was admitted to Stratford House on April 3, 2003, she did not have any [pressure ulcers](#). The facility's care plan acknowledged that Ms. French's limited mobility put her at significant risk for developing [pressure sores](#). The care plan specified that Ms. French should be turned and repositioned frequently by nursing home staff, kept clean and dry after incontinence, and provided adequate hydration and nutrition.

During her stay at Stratford House, Ms. French's condition deteriorated. On July 23, 2003, Ms. French's daughter again moved her mother, this time to Erlanger Medical Center. Ms. French had a low-grade fever and [low blood pressure](#). Doctors at Erlanger tried to increase her blood pressure as well as treat a [urinary tract infection](#) and a number of infected pressure ulcers (stage iv). Despite these efforts, Ms. French developed pulmonary swelling and required help breathing. Ms. French died on July 26, 2003 from [sepsis](#).

Ms. French's Estate asserted that Ms. French suffered from decubitus ulcers that were so severe that they became necrotic and infected. (See "[Nursing Homes Abuse Blog - Bed sores, pressure sores, decubitus ulcers and pressure ulcers](#)") These injuries became septic and led to her death. The Estate alleged that Stratford Home failed to provide the medical treatment and ordinary care that Ms. French's condition required.

The Supreme Court of Tennessee held that because the administratrix of the estate alleged violations of the standard of care pertaining to both medical treatment and routine care, she made claims based on medical malpractice and ordinary negligence and may offer proof of negligence per se and violations of the [Tennessee Adult Protection Act](#) in order to support her ordinary negligence claims. The Court also affirmed the Court of Appeals' reinstatement of the claim for punitive damages.

Specifically, the Supreme Court of Tennessee determined that the gravamen (substantial point or essence) of the case falls into the category of ordinary negligence (nursing home's failure to ensure that its staff complies with the care plan and perform necessary services).

The Court also determined that neither the [Federal Nursing Home Reform Act](#) (FNHRA) nor the corresponding Tennessee act creates an express right of private action. However, proof of violations of the regulations is relevant in determining whether the nursing home breached the standard of care, so negligence per se theory may be pursued.

The Court also held that the injuries that Ms. French suffered, which allegedly occurred because of the defendants' ordinary negligence, are the type of injuries that TAPA is intended to address. The Tennessee Supreme Court affirmed the Court of Appeals' determination that the trial court erred in dismissing the punitive damages claims. The Supreme Court of Tennessee remanded the case to the trial court for proceedings.

It is unfortunate that it took the death of a resident to bring light to the negligence of this long-term care facility. In Ms. French's case, Stratford House failed to provide basic medical care and services.

Pressure sores are preventable through simple techniques such as turning and repositioning and the use of pressure relieving mattresses. It is inexcusable for a nursing home to allow a resident's pressure sores to worsen to where the ulcer is so deep that it reveals bone. If you or a family member suffered injury while a resident of a nursing home, you may be entitled to compensation.

#### Sources:

[Estate of Martha S. French v. Stratford House Et Al.](#)

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