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"Concerned Citizens" Rush to Defense of Negligent Nursing Homes

By Collins & Collins

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A recent verdict against a nursing home corporation in West Virginia has stirred a renewed push for tort reform and limits on [medical malpractice](#) awards. A West Virginia jury awarded over \$90 million to the family of a patient that died within 3 weeks of admission to the facility. Rather than outrage at the continuing and pervasive neglect of our parents and grandparents in nursing homes, corporate America through the guise of citizen groups have used the verdict as a call for further restrictions on the rights of injured patients to recover for injuries suffered at the hands of profit driven policies that inevitably lead to tragedy each and every day throughout the country.

The facts of the West Virginia case are not dissimilar to countless other cases of [nursing home abuse and neglect](#). The 87 year old patient was placed in the care of the Manor Care Heartland facility. It was to be a short-term stay as the family awaited admission to another facility. It was argued and accepted by the jury that nursing home staff immediately confined the patient to a wheelchair despite her ability to walk. This is not uncommon for reasons that became obvious to the jury.

Testimony of the facility's staff showed that the facility was severely understaffed. It was shown that it was impossible to care for the number of patients adequately at the staffing levels that existed at the facility. What's the solution to a short-handed staff? Immobilize the patients. This is done in nursing homes throughout the country in a variety of forms. Often, the patient is simply confined to a wheelchair. Other times, with less compliant patients, the facilities will resort to medication to keep the patients immobile. This practice of chemical restraints comes in many forms, some subtle, some not.

Unfortunately, an immobilized patient will suffer all varieties of health related issues related to the lack of mobility. Worst, as here, an immobile patient seemingly content in his or her resting state become invisible to the overwhelmed staff. As the saying goes, the squeaky wheel gets the grease. When the patient does not make a peep, and the facilities are understaffed in order to enhance profits, the inevitable result is neglect. In

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the West Virginia case, the neglect was so severe that the patient was denied even basic necessities such as food and water. The result, in her brief 3 week stay which was intended to be temporary, the poor woman died of gross neglect.

Immediately, the cries went out from all variety of corporate driven groups with deceptive names suggesting citizen outrage for the reform of the jury system. Naturally, corporations want to limit their financial responsibility for their misdeeds. This ranges from product liability, to oil spills, to corporate owned hospitals, to nursing homes and on and on. These cynically named so-called citizens groups argue that the jury system is causing untold damage to the American way. They argue that corporations should be allowed to police themselves. After all, the corporation will suffer enough from the loss of business associated with their negligent ways. Other financial deterrents such as bothersome jury verdicts are completely unnecessary.

It is interesting to look at just the very recent past in the nursing home industry to understand why this is such an insincere, cynical and profit driven position. In fact, even these seemingly astronomical verdicts have little impact on industry practices since the simple fact remains that less staff means more profits. Last year, a California jury awarded \$677 million on a class action nursing home case. Closer to home, a New Mexico jury awarded a \$54 million in a nursing home neglect case. That case involved a woman who slowly bled to death in her bed while staff failed to provide even basic care such as periodically checking her vital signs. Then the nursing home created false records and concealed evidence, including the bloody sheets on which she died, in order to cover up the wrongful death.

Naturally, concerned citizen groups around the country flocked in each of the cases to the defense of the nursing homes right to behave negligently while maintaining profits. After all, what citizen wouldn't value the profits of nursing home corporations and their insurance carriers more than the well-being and care of elder family members and loved ones? Despite the minor inconvenience to patients associated with gross neglect I know that I sleep better knowing that nursing home companies are maintaining the bottom line. I for one would not want the health and well-being of my family to in any way intrude on those profits. As a "concerned citizen," that would be un-American.

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