



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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Illinois Court on Proving Liability for Medical Malpractice

Written by Admin - BN on February 28th, 2012



Oftentimes, physicians are employed by more than one medical institution. This can make it difficult establish liability for negligent treatment in medical malpractice cases, since it is sometimes difficult to prove which hospitals employed a physician for the purposes of the negligent conduct at issue.

This was the very issue presented in *Turner v. U.S.*, No. 09 C 4606, where the plaintiff was permanently injured during an operation performed on him at Edward J. Hines Jr. Veterans Administration Hospital (VA) in Chicago, Illinois. The brother and guardian of the injured patient, John Johnson, claimed on his brother's behalf that the anesthesiologist who allegedly caused the injury was employed by both the VA and Loyola University Medical Center (Loyola), and thus both institutions were responsible for her medical malpractice.

In support of the claim that the physician was acting as an agent of Loyola at the time the surgery occurred, the plaintiff offered payroll forms and correspondence between Loyola and the physician indicating she was employed by both Loyola and the VA, evidence that the hospitals are "affiliated institutions" and provide each other with their respective "call schedules," evidence that the physician's employment with Loyola requires her to obtain Loyola's approval before engaging in certain activities, such as clinical research, that both institutions sponsored the research study in which Mr. Johnson agreed to participate, and the physician's acknowledgment that she "sometimes" wore her Loyola lab coat while working at the VA.

The Court found that the evidence was insufficient to support the conclusion that the physician was an agent of Loyola's at the time of the surgery:

"Even if (the plaintiff's) evidence were not stacked against undisputed, affirmative evidence that Dr. Hanna performed work on Mr. Johnson's case exclusively as an agent of Hines, not of Loyola, FN6 plaintiff's cited evidence is not of the sort that could lead a reasonable jury to conclude that Loyola controlled Dr. Hanna's "manner of doing the work" she performed during Mr. Johnson's surgery."

The lesson to be learned is that before filing a [medical malpractice lawsuit](#), it is important to carefully research the relationships of the doctors that you believe are at fault and the nature of their relationships with the institutions for

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whom they work. Sometimes liability and responsibility for negligent conduct may not always be as clear cut as it first seemed.

The Ankin Law Office LLC (www.ankinlaw.com) handles workers' compensation and personal injury cases. You can reach the firm by calling (312) 346-8780.