

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

NANCY HAUKE and JOAN MILLER,	:	
Co-Administrators of the Estate of	:	
Guila Lewis,	:	
Plaintiffs	:	
	:	
v.	:	No. 04-00,192
	:	CIVIL ACTION
MANORCARE HEALTH SERVICES	:	
WILLIAMSPORT NORTH; MANOR CARE	:	
INC., HCR MANOR CARE SERVICES, INC.;	:	
and MANORCARE HEALTH SERVICES,	:	
INC.,	:	
Defendants	:	SUMMARY JUDGMENT

OPINION AND ORDER

Before this Honorable Court, is the Defendants' May 31, 2006 Motion for Summary Judgment. The Defendants contend that the Plaintiffs have failed to establish a *prima facie* case for medical negligence. For the following reasons, the Court hereby GRANTS the Defendants' Motion for Summary Judgment.

I. Background

The decedent, Guilia Lewis, was a long-term resident of the Defendants' facility. At the time of her death, the decedent, who suffered from Alzheimer's disease, was totally dependant on the Defendants' services for all aspects of her care. In the months preceding her April 14, 2002 death, the decedent's health deteriorated culminating with her transfer and admission to the Williamsport Hospital on April 12, 2002 where, two days after being admitted, Ms. Lewis passed away. The decedent's death certificate list respiratory failure/hypernatremic dehydration as the cause of death.

The Plaintiffs, co-administrators of the decedent's estate, filed the instant suit in March 2004 alleging that the Defendants' staff failed to provide reasonable care to the decedent that ultimately caused her April 2002 death. In their May 31, 2006 Motion for Summary Judgment, the Defendants correctly counter that, in order to establish a *prima facie* case for medical negligence, the Plaintiff must provide expert testimony regarding the causal link between the Defendants' staff's alleged negligence and the condition that caused the decedent's death. Furthermore, the Defendants' argue, the Plaintiffs' proffered witness, registered nurse Christine M. Hall, is not qualified to testify to this link. In response, the Plaintiffs argue that the link between the Defendants' staff's alleged negligence and the decedent's cause of death is so obvious that expert testimony is not required.

II. Discussion

Summary judgment is appropriate, after the close of the relevant pleadings, "where there is no genuine issue of material fact that is a necessary element of the cause of action, or if an adverse party, who will bear the burden of proof at trial, has failed to produce evidence of facts essential to the cause of action." Pa.R.C.P. No. 1035.2. In reviewing the motion for summary judgment, the Court must review the record in a light most favorable to the non-moving party and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Fine v. Checcio*, 582 Pa. 253, 264, 870 A.2d 850, 857 (Pa. 2005) citing *Jones v. SEPTA*, 565 Pa. 211, 772 A.2d 435 (Pa. 2001). Finally, the court may grant summary judgment only where the right to such a judgment is clear and free from doubt. *Fine*, at 264, 857 citing *Marks v. Tasman*, 527 Pa. 132, 589 A.2d 205 (Pa. 1991).

"A claim of corporate negligence, like a claim of medical malpractice, requires that in cases where an entity's negligence is not obvious, a plaintiff must establish through expert

testimony that the entity's acts deviated from an accepted standard of care and that the deviation was a substantial factor in causing plaintiff's harm." *Matthews v. Clarion*, 1999 PA Super.302, P2, 742 A.2d 1111, 1112 (Pa. Super. Ct. 1999) citing *Welsh v. Bulger*, 548 Pa. 504, 514, 698 A.2d 581, 585 (Pa. 1997). "An obvious causal relationship exists where the injuries are either an "immediate and direct" or the "natural and probable" result of the alleged negligent act." *Matthews*, 1999 PA Super. 302, P3, 742 A.2d 1111, 1112 (Pa. Super. Ct. 1999); *Tabuteau v. London G. & A., Ltd.*, 351 Pa. 183, 40 A.2d 396 (1945) and *Fenstermaker v. Bodamer*, 195 Pa.Super. 436, 171 A.2d 641 (1961).

Here, the link between the Defendants' staff's alleged negligence and the decedent's cause of death is not obvious; the Plaintiffs believe that a lay jury can make the connection between negligent nursing staff care and respiratory failure/hypernatremic dehydration. Although, as the Plaintiffs' claim, the decedent arrived at the hospital suffering from the same condition that was determined to be the cause of death, the Plaintiffs do not offer any testimony (nor do they believe they need to) other than that of Nurse Hall, to establish that the Defendants' staff's alleged negligence is what caused the condition the decedent died from and, pursuant to *Flanagan v. Labe*, 547 Pa. 254, 690 A.2d 183 (Pa. 1987) and *Toogood v. Rogal*, 573 Pa. 245, 824 A.2d 1140 (Pa. 2003), Nurse Hall is not competent to testify as to the cause of the condition that caused the decedent's death. Nurse Hall can testify that the Defendants' staff may have been negligent with regards to the decedent's care; however, she is not qualified to establish the link between that alleged negligent care and the condition that lead to the decedent's demise – only a medical professional with a higher degree of training can establish this link, and because the Plaintiffs do not have such a witness, they have fatally failed to establish one of the essential elements of their cause of action.

ORDER

AND NOW, this _____ day of August 2006, the Court hereby GRANTS the Defendant's Motion for Summary Judgment. Accordingly, the Plaintiffs' Complaint is DISMISSED.

By the Court,

Nancy L. Butts, Judge

xc: Thomas Waffenschmidt, Esq.
David B. Lingenfelter, Esq.
Hon. Nancy L. Butts
Judges
Gary L. Weber, Esq. (Lycoming Reporter)
Laura R. Burd, Esq. (Law Clerk)