

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| CHARLES GALEANO and PATRICIA GALEANO, | : NO. 14 – 00,629 |
| Plaintiffs | : |
| vs. | : |
| | : CIVIL ACTION |
| | : |
| SUSQUEHANNA HEALTH SYSTEM and WILLIAMSPORT | : |
| REGIONAL MEDICAL CENTER, | : Motion for |
| Defendants | : Summary Judgment |

OPINION AND ORDER

Before the court is Defendants’ motion for summary judgment or, in the alternative, motion in limine, filed April 25, 2016. Argument on the motion was heard May 9, 2016.

Plaintiffs brought this action because Plaintiff Charles Galeano fell on a mat affixed to the floor which operated the automatic doors to the outpatient physical therapy department at Defendant Williamsport Regional Medical Center. Plaintiffs contend that Defendants knew or should have known that the mat was a dangerous condition for patients with ambulatory limitations, that Plaintiff had ambulatory limitations and moreover, as a result of a physical therapy evaluation just prior to the fall Plaintiff was further weakened, that Plaintiff’s compromised physical condition made it unsafe for him to walk out of the facility unassisted and that Defendants (1) had a duty to assess his condition, (2) should have been aware that he required assistance, and (3) breached their duty by failing to provide the required assistance.¹ In support of these contentions Plaintiffs have offered the testimony of Joseph Graci, P.E., a civil engineer, and Defendants now argue that the testimony of a medical expert is instead required, and without such,

¹ Mr. Galeano was offered but refused a wheelchair escort.

Plaintiffs cannot support their case and Defendants are entitled to judgment as a matter of law.

Whether a claim is one of medical malpractice rather than simply ordinary negligence, and thus requires medical expert testimony, is determined by “(1) whether the claim pertains to an action that occurred within the course of a professional relationship; and (2) whether the claim raises questions of medical judgment beyond the realm of common knowledge and experience.” Grossman v. Barke, 868 A.2d 561, 570 (Pa. Super. 2005). The Court in Grossman determined that the plaintiff’s claim therein, that Dr. Barke should be held liable for the decedent’s fall from an exam table because he “should have known that she could not stay safely seated on the examination table after climbing onto it herself [at his direction] given her history of diabetes with associated dizzy spells and other aspects of her physical condition,” Id. at 564, was a claim of medical malpractice and required medical expert testimony. The Court stated: “most telling is Plaintiff’s assertion of liability *based on Dr. Barke’s professional knowledge, as a physician, of his patient’s condition*, which requires consideration of certain complex medical factors including an alleged history of dizzy spells due to diabetes. Certainly, the issues implicate Dr. Barke’s *medical judgment* with regard to [the decedent’s] condition.” Id. at 571 (emphasis added).

In the instant case, Plaintiffs allege that Defendants are licensed health care providers and that on the day of the fall, Charles Galeano was a patient at the facility seeking an initial evaluation for physical therapy. Plaintiffs allege that the physical therapy staff had a duty to assess his condition and should have been aware that he required assistance to exit the facility. Thus, Plaintiffs’ claim pertains to an action that occurred within the course of a professional relationship.

Further, the professional judgment of the physical therapy staff is being implicated by the claim that they had a duty to assess Mr. Galeano's condition and should have been aware that he required assistance to exit the facility.

Plaintiffs' expert witness opines that while the mat "may not be a hazard for a healthy, young and strong person it was a hazard for an older, weaker person with a documented (by the hospital) history of dizziness, falls, ambulatory problems, and that walks with a cane", and that "it is the combination of the person's condition and the condition of the floor surface that makes a floor safe or a hazard". While this may be legitimate expert testimony regarding the mat itself, the expert also goes on to opine that "[i]n his elderly, weakened, injured and tired condition, Mr. Galeano did not have the reflexes nor the strength to compensate and avoid the fall by bringing his other leg into play to save him." Mr. Graci states that "a cause of the fall was "the inability of the hospital staff to recognize Mr. Galeano's weakened and vulnerable condition after his physical therapy session", that they should have "used the due diligence that a hospital staff should have used" and should have "required that Mr. Galeano use a wheel chair and/or wait a sufficient amount of time to recover". See Exhibit A attached to the motion, Graci Report dated March 13, 2014. All of these further opinions speak to the *medical judgment* of the physical therapy staff. As an engineer, Mr. Graci is not qualified to offer such opinions and thus will not be allowed to so testify at trial.

Without a medical expert to provide evidence of causation, that is, that Mr. Galeano's condition (combined with the condition of the floor surface) caused his fall, and that the physical therapy staff knew or should have known of that

condition and breached a medical standard of care by allowing him to exit the facility unassisted, Plaintiffs cannot make out their case.²

ORDER

AND NOW, this day of May 2016, for the foregoing reasons, Defendants' motion for summary judgment is hereby GRANTED. Judgment is hereby entered against Plaintiffs and in favor of Defendants.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Robert Seiferth, Esq.
Brian J. Bluth, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson

² While the court notes Plaintiffs' objection to the timeliness of the instant motion for summary judgment, as it is beyond the deadline for filing dispositive motions, since Defendants would be justified in moving for a judgment of non pros at the conclusion of Plaintiffs' case, the court will enter judgment at this time.