

By: Jackson, Mike

S.C.R. No. 33

CONCURRENT RESOLUTION

1 WHEREAS, Betty Bardwell alleges that:

2 (1) she was employed by the Rebecca Sealy Hospital,
3 part of The University of Texas Medical Branch at Galveston;

4 (2) on or about May 13, 2003, she slipped on a liquid
5 substance on the floor of the employee break room at the Rebecca
6 Sealy Hospital;

7 (3) as a result of the fall, she sustained injuries to
8 her right wrist that required surgery;

9 (4) there were no warning signs that indicated
10 housekeeping had mopped the floor;

11 (5) she reported the incident to David H. McLaren of
12 The University of Texas Medical Branch at Galveston, and that his
13 subsequent report to The University of Texas System Workers'
14 Compensation Insurance Company was "totally incorrect";

15 (6) David McLaren's report indicated that Betty
16 Bardwell knowingly walked on a wet floor despite warning signs;

17 (7) her reputation has been damaged as a result of the
18 inaccurate report;

19 (8) the Texas Workers' Compensation Commission
20 conducted a hearing on January 5, 2004, to determine the validity of
21 her claims;

22 (9) the decision was favorable to Betty Bardwell;

23 (10) additionally, Betty Bardwell signed an
24 "Authorization for Release of Information" addressed to Dr. Emmie

1 Ko, the surgeon who performed the wrist surgery, on which she
2 indicated that only medical records related to the injuries
3 sustained in the fall should be released;

4 (11) during the Texas Workers' Compensation Commission
5 hearing, she discovered that Bradley D. McClellan, assistant
6 attorney general for the State of Texas, had access to her entire
7 medical file;

8 (12) The University of Texas Medical Branch at
9 Galveston released her entire medical file to Rydman Record
10 Retrieval, a company that was contracted by the attorney general's
11 office to obtain her medical records;

12 (13) the original "Authorization for Release of
13 Information" was altered by either the attorney general's office or
14 Rydman Record Retrieval, and that Dr. Emmie Ko's name had been
15 removed from the request;

16 (14) the request as submitted by Rydman Record
17 Retrieval was not compliant with the Health Insurance Portability
18 and Accountability Act of 1996 (HIPAA);

19 (15) Bradley D. McClellan is ultimately responsible
20 for the altered release form; and

21 (16) Betty Bardwell is entitled to exemplary damages
22 in the amount of \$500,000; now, therefore, be it

23 RESOLVED by the Legislature of the State of Texas, That Betty
24 Bardwell is granted permission to sue the State of Texas, The
25 University of Texas Medical Branch at Galveston, and the Office of
26 the Attorney General subject to Chapter 107, Civil Practice and
27 Remedies Code; and, be it further

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1 RESOLVED, That the president of The University of Texas
2 Medical Branch at Galveston and the attorney general be served
3 process as provided by Section 107.002(a)(3), Civil Practice and
4 Remedies Code.