



# Trowell v. Providence Hospital (Mich. S.Ct.)

Topics Covered: Professional Liability, Tort Reform

## Issue

The issue in this case is whether the plaintiff's injuries, incurred when falling on her way to a hospital bathroom, arose from medical malpractice or from ordinary negligence.

## AMA Interest

Medical liability reform is one of the AMA's highest legislative priorities. Further, the AMA supports state medical associations' efforts to curtail lawsuit abuse.

## Case Summary

Audrey Trowell was admitted to the intensive care unit (ICU) at Providence Hospital, and she required assistance when she went to the bathroom. The hospital employed a nurse's aide to assist Trowell. On two occasions, the nurse's aide dropped Trowell while helping her to the bathroom.

Trowell sued the hospital for the injuries resulting from her falls. Initially, her complaint was entitled "Medical Negligence," but in an amended pleading she retitled it, simply, "Negligence." She asserted that the hospital was negligent because (1) it employed one nurse's aide to assist her, when it should have used two aides or nurses, and (2) the assistance the hospital did provide was rendered in a careless manner.

The hospital moved for summary judgment. It argued that, however the complaint might be entitled, the case was based on medical malpractice. Under various provisions of the Michigan tort reform laws, the suit was insufficient. Particularly, Trowell had failed to notify the hospital of her intent to sue before she actually did so, there was no affidavit of merit, and the suit was filed outside of the two-year statute of limitations applicable to medical malpractice suits.

The trial court granted summary judgment to the hospital.

Trowell appealed to the Michigan Court of Appeals, which reversed and remanded. It found that, for a claim to be founded on medical malpractice it must raise questions of medical judgment beyond the realm of common knowledge and experience. Here, the record was insufficient to ascertain whether Trowell's case raised such questions.

The hospital has now appealed to the Michigan Supreme Court. Briefing has been completed, and oral argument has been heard.

## Litigation Center Involvement

The Litigation Center and the Michigan State Medical Society filed an *amicus* brief to support the hospital.

Michigan Supreme Court brief