

BILL ANALYSIS

Senate Research Center
80R7522 LJW-D

S.C.R. 65
By: Jackson, Mike
Jurisprudence
5/7/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Betty Bardwell alleges that:

She was employed by the Rebecca Sealy Hospital, part of The University of Texas Medical Branch at Galveston. On or about May 13, 2003, she slipped on a liquid substance on the floor of the employee break room at the Rebecca Sealy Hospital. As a result of the fall, she sustained injuries to her right wrist that required surgery. There were no warning signs that indicated housekeeping had mopped the floor. She reported the incident to David H. McLaren of The University of Texas Medical Branch at Galveston, and that his subsequent report to The University of Texas System Workers' Compensation Insurance Company was "totally incorrect."

David McLaren's report indicated that Betty Bardwell knowingly walked on a wet floor despite warning signs. Her reputation has been damaged as a result of the inaccurate report. The Texas Workers' Compensation Commission conducted a hearing on January 5, 2004, to determine the validity of her claims. The decision was favorable to Betty Bardwell, and the case is on appeal. Additionally, Betty Bardwell signed an "Authorization for Release of Information" addressed to Dr. Emmie Ko, the surgeon who performed the wrist surgery, on which she indicated that only medical records related to the injuries sustained in the fall should be released.

During the Texas Workers' Compensation Commission hearing, she discovered that Bradley D. McClellan, assistant attorney general for the State of Texas, had access to her entire medical file. The University of Texas Medical Branch at Galveston released her entire medical file to Rydman Record Retrieval, a company that was contracted by the attorney general's office to obtain her medical records. The original "Authorization for Release of Information" was altered by either the attorney general's office, or by Rydman Record Retrieval, and Dr. Emmie Ko's name had been removed from the request.

The request as submitted by Rydman Record Retrieval was not compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Bradley D. McClellan is ultimately responsible for the altered release form. Betty Bardwell is entitled to exemplary damages in the amount of \$500,000.

RESOLVED

That the 80th Legislature of the State of Texas hereby grant Betty Bardwell permission to sue the State of Texas, The University of Texas Medical Branch at Galveston, and the Office of the Attorney General subject to Chapter 107, Civil Practice and Remedies Code; and, that the president of The University of Texas Medical Branch at Galveston and the attorney general be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.