

2011 WL 11779750 (Conn.Super.) (Trial Pleading)  
Superior Court of Connecticut.  
Fairfield County

Helen KOLTON,  
v.  
PATIENT'S CHOICE HOMECARE, LLC; and Vickilynn Pagan.

No. FBTCV116018178.  
April 8, 2011.

### **Complaint**

The Plaintiff, [Jonathan E. Spodnick](#), 672 White Plains Road, Trumbull, CT 06611, (203) 372-1500, Juris #400637.

#### ***FIRST COUNT: AS TO PATIENT'S CHOICE HOMECARE, LLC AND VICKILYNN PAGAN***

1. At all times herein, the Defendant, Patient's Choice Homecare, LLC, was a limited liability company organized, licensed and existing under the laws of the State of Connecticut which operated a visiting nurse business in this State, with a mailing address of 7 Cambridge Drive, Trumbull, CT; and a business address of 370 Silas Dean Highway, Wethersfield, CT.

2. At all times herein, the Defendant, Vickilynn Pagan, was an employee of Patient's Choice Homecare, LLC and was acting within the scope of her employment and in the furtherance of her employers business of visiting nursing practice.

3. At all times herein, the Plaintiff, Helen Kolton, was receiving visiting nursing services from the Defendants at her home located at, 150 Texas Avenue, in the City of Bridgeport, and State of Connecticut.

4. On or about January 13, 2009 while in the care of the Defendants, the Plaintiff Helen Kolton, was being weighed on a scale at her home by and at the request of Nurse Vickilynn Pagan, when she fell off the scale and suffered injuries of a serious, painful and permanent nature.

5. The Defendants, Patient's Choice Homecare and Vickilynn Pagan, acting through the Defendant Vickilynn Pagan were negligent and breached the standard of care in one or more of the following ways:

- a. IN THAT Nurse Pagan failed to assure Ms. Kolton was safe when being weighed;
- b. IN THAT Nurse Pagan relied on oral instructions to an unsteady patient rather than keeping physical contact and control of the patient to avoid the risk of a fall;
- c. IN THAT Nurse Pagan **abandoned** her duty to stabilize and ensure the safety of the patient while she attempted to read the scale;
- d. IN THAT Nurse Pagan knew that the process of weighing Ms. Kolton was unreasonably dangerous to the patient since the nurse's method to read the scale left Ms. Kolton at risk for falling;
- e. IN THAT Nurse Pagan failed to focus on the safety of the patient, so that the patient would not lose her balance when mounting, standing on, or dismounting from the scale;

- f. IN THAT Nurse Pagan despite the knowledge that Ms. Kolton needed constant physical assistance failed to provide the same;
- g. IN THAT Nurse Pagan should not have placed Ms. Kolton on a scale without adequate assistance, i.e., direct physical support from either a structure in the home or another staff member to prevent a fall;
- h. IN THAT Nurse Pagan knowing that Ms. Kolton needed to be weighed, should have brought with her to Mrs. Kolton's home a scale with built in support arms, hand rails or fold away seats, which are available and used for unsteady patients;
- i. IN THAT Nurse Pagan use of a simple, hard to read, home scale violated the standard of care;
- j. IN THAT Nurse Pagan did not choose a location within the home where the patient had a physical structure for support such as a kitchen counter or a large piece of furniture;
- k. IN THAT Nurse Pagan should have deferred taking the patient's weight, or simply waited until a second competent person was available to assist and support Ms. Kolton;
- l. IN THAT Nurse Pagan failed to have the patient use a support device which was available such as a walker or cane for additional support and security;
- m. IN THAT Nurse Pagan allegedly walked around the patient, from the rear to the front, in a restricted area, and failed to maintain contact with the patient in the process of weighing the patient;
- n. IN THAT Nurse Pagan failed to obtain the weight of Ms. Kolton by looking around the patient and continuing to maintain support of the patient from behind thereby minimizing the risk of a fall;
- o. IN THAT the Defendant employer failed to properly train its employees to care for, treat, and/or handle patients while they were weighed;
- p. IN THAT the Defendant employer, its agents, servants, and/or employees failed to properly monitor the Plaintiff while being weighed;
- q. IN THAT the Defendant employer failed to have proper policies and procedures concerning; the safe weighing of a patient, treating and caring for a patient who was a known fall risk, preventing falls in **elderly** patients, and setting forth requirements for accurate charting practices and data entry.

6. As a result of the Defendant's breach of the standard of care, the Plaintiff suffered injuries of a serious, painful, and permanent nature, including a comminuted fracture of the left distal radius and ulnar with disruption of the radial/ulnar joint and anterior displacement of the ulna requiring surgical intervention including open reduction and internal fixation; a comminuted fracture of the left humeral neck; nervousness and anxiety regarding her physical condition; fear of surgery; and a general shock to her nervous system; all of which prevented her from enjoying life's activities as she was entitled to.

7. As a further result of the Defendant's breach of the standard of care, the Plaintiff has incurred substantial expense for medical care and may continue to do so in the future.

Wherefore, the Plaintiff claims monetary damages within the jurisdiction of the Court.

**SECOND COUNT: AS TO VICKILYNN PAGAN**

1. At all times herein, the Defendant, Vickilynn Pagan, was a visiting nurse licensed to practice as a registered nurse under the laws of the State of Connecticut. At all times herein, the Plaintiff, Helen Kolton, was receiving visiting nursing services from Nurse Pagan at her home located at, 150 Texas Avenue, in the City of Bridgeport, and State of Connecticut.

4. On or about January 13, 2009 while under the care of Nurse Pagan, the Plaintiff, Helen Kolton, was being weighed on a scale at her home by and at the request of the Defendant Nurse, Vickilynn Pagan, when she fell off the scale and suffered injuries of a serious, painful and permanent nature.

5. The Defendant, Vickilynn Pagan was negligent and breached the standard of care in one or more of the following ways:

a. IN THAT Nurse Pagan failed to assure Ms. Kolton was safe when being weighed;

b. IN THAT Nurse Pagan relied on oral instructions to an unsteady patient rather than keeping physical contact and control of the patient to avoid the risk of fall;

c. IN THAT Nurse Pagan **abandoned** her duty to stabilize and ensure the safety of the patient while she attempted to read the scale;

d. IN THAT Nurse Pagan knew that the process of weighing Ms. Kolton was unreasonably dangerous to the patient since the nurse's method to read the scale left Ms. Kolton at risk for falling;

e. IN THAT Nurse Pagan failed to focus on the safety of the patient, and assured she would not lose her balance when mounting, standing on, or dismounting from the scale;

f. IN THAT Nurse Pagan despite the knowledge that Ms. Kolton needed constant physical assistance failed to provide the same;

g. IN THAT Nurse Pagan should not have placed Ms. Kolton on a scale without adequate assistance, i.e., direct physical support from either a structure in the home or another staff member to prevent a fall;

h. IN THAT Nurse Pagan knowing that Ms. Kolton needed to be weighed, should have brought with her to Mrs. Kolton's home a scale with built in support arms, hand rails or fold away seats, which are available and used for unsteady patients;

i. IN THAT Nurse Pagan use of a simple, hard to read, home scale violated the standard of care;

j. IN THAT Nurse Pagan did not choose a location within the home where the patient had a physical structure for support such as a kitchen counter or a large piece of furniture;

k. IN THAT Nurse Pagan should have deferred taking the patient's weight, or simply waited until a second competent person was available to assist and support Ms. Kolton;

l. IN THAT Nurse Pagan failed to have the patient use a support device which was available such as a walker or cane for additional support and security;

m. IN THAT Nurse Pagan allegedly walked around the patient, from the rear process of weighing the patient;

n. IN THAT Nurse Pagan failed to obtain the weight of Ms. Kolton by looking around the patient and continuing to maintain support of the patient from behind, thereby minimizing the risk of a fall;

o. IN THAT Nurse Pagan failed to properly monitor the Plaintiff while being weighed;

p. IN THAT Nurse Pagan failed to follow proper policies and procedures concerning; the weighing of a patient, treating and caring for a patient who was a known fall risk, preventing a fall of an **elderly** patient, and failed to follow the requirements for accurate charting practices and data entry.

6. As a result of the Defendant's breach of the standard of care, the Plaintiff suffered injuries of a serious, painful, and permanent nature, including a comminuted fracture of the left distal radius and ulnar with disruption of the radial/ulnar joint and anterior displacement of the ulna requiring surgical intervention including open reduction and internal fixation; a comminuted fracture of the left humeral neck; nervousness and anxiety regarding her physical condition; fear of surgery; and a general shock to her nervous system; all of which prevented her from enjoying life's activities as she was entitled to.

7. As a further result of the Defendant's breach of the standard of care, the Plaintiff has incurred substantial expense for medical care and may continue to do so in the future.

WHEREFORE, the Plaintiff claims monetary damages within the jurisdiction of the Court.

THE PLAINTIFF,

BY: <<signature>>

JONATHAN E. SPODNICK

672 White Plains Road

Trumbull, CT 06611

(203) 372-1500

Juris #400637

***STATEMENT OF AMOUNT IN DEMAND***

The Plaintiff claims damages in excess of \$15,000.00, exclusive of interests and costs.

THE PLAINTIFF,

BY: <<signature>>

JONATHAN E. SPODNICK

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