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Broken back nets elderly woman \$2M

She became partially paralyzed in hospital following 2013 injury

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An elderly woman who became partially paralyzed after fracturing her spine during a hospital stay has settled her lawsuit for \$2 million.

The agreement came earlier this month in 72-year-old plaintiff Catherine Joseffer's medical-malpractice case. She sued Advocate Health and Hospitals Corp. in 2013, alleging she was injured because its nursing staff failed to properly assist her while she used her bedside commode.

Joseffer, 69 at the time, had been admitted to Advocate Lutheran General Hospital in Park Ridge to undergo posterior spinal fusion and decompression surgery in February 2013.

The procedure was successful and doctors anticipated she would regain her quality of life after proper recovery, said Jeffrey J. Kroll, a partner at Salvi, Schostok & Pritchard P.C. who represented Joseffer.

About six days after the procedure, while she was still recovering in the hospital, Joseffer suffered a chance fracture — which Kroll described as “an exploding-type fracture” — to a

different part of her spine as she attempted to use her bedside commode.

“You typically see it from a car accident when an air bag hits you or if you fall from heights,” he said.

The type of fracture Joseffer suffered was important to her case, Kroll said.

While the nursing staff alleged Joseffer's spine fractured after she gently sat against a steel bar on the back of the commode, Kroll said he believes Joseffer was dropped. He said his client's experts shared the opinion that “you don't get a chance fracture unless it is a heavy type of jarring blow.”

The incident also caused Joseffer to suffer a hematoma that applied pressure on her spinal column, Kroll said. Physicians surgically relieved that pressure, he said, but she became partially paralyzed from the combination of her injuries.

Now 72, Joseffer is essentially wheelchair-bound except for instances of chair-to-bed transfer, Kroll said, and she cannot walk extended distances.

“What this settlement will do is provide her nursing care and rehab care to potentially assist her, but by no means is it going to change her condition,” he said.

In denying the allegations in Joseffer's lawsuit, Advocate also contended she caused her own injuries by failing to wear her back brace.

“Our position is that the



Jeffrey J. Kroll

nursing staff should have instructed her to use the back brace,” Kroll said. “Instead of placing the blame on the patient, the hospital should have accepted the responsibility that they didn't do their job.”

William J. Rogers, a partner at Swanson, Martin & Bell Ltd. who represented Advocate, did not return a request for comment by publication.

The parties attempted to mediate the case in September before retired Cook County judge Thomas L. Hogan, Kroll said, but they failed to reach an agreement at the time because each side valued the case differently.

But they reached the \$2 million agreement on Nov. 11 largely because they continued negotiating after the mediation, said Kroll, who credited Rogers for keeping the dialogue open after the unsuccessful mediation. The



Aaron D. Boeder

case was set for trial in January.

“This was a good settlement for all parties involved,” he said. “For Catherine, it provides her much needed care now versus later. And candidly, I thought the defendant hospital had exposure for this incident, and it was good for them to resolve this matter as well.”

Kroll said his client is happy with the result of her case, as it will help her move on from the incident.

“It provides a bit of closure to an otherwise ugly chapter in her life, and it provides her with some medical care which was much needed to improve the quality of her life,” he said.

Salvi, Schostok & Pritchard associate Aaron D. Boeder also represented Joseffer.

The case is *Catherine Joseffer v. Advocate Health and Hospitals Corp.*, 13 L 13494.