

## **Health Law**

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# **Res Ipsa Loquitur Theory Survives Dismissal in Hospital Fire**

On October 3, 1998, paramedics responded to a call regarding Almon Heastie. He was found intoxicated in a residential driveway and was transported to the emergency room of the Columbia Olympia Fields Osteopathic Hospital and Medical Center (“the Hospital”). Medical personnel determined Heastie did not require immediate medical intervention. However, because Heastie was yelling and combative, the Hospital’s emergency room charge nurse believed he was an immediate threat to harm himself or others. In accordance with the Hospital’s policies, Heastie was restrained on a cart and moved to an area of the Hospital away from other patients. *Heastie v. Roberts*, No. 102428, 2007 WL 3227199, \*1 (Ill. November 1, 2007).

The Hospital’s regular seclusion room for these situations was already in use, so Heastie was taken to the ER’s cast room. Although Hospital policy required the staff to search Heastie for contraband, no search was done. Approximately 90 minutes later, the heat alarm in the cast room activated the ER’s fire alarm. Heastie was found on fire, still secured to the cart by restraints. He was transported by helicopter to Loyola University Medical Center. *Heastie*, 2007 WL 3227199 at \*2. Heastie suffered third degree burns to several portions of his body and required extensive debridement, grafting, multiple surgeries, and the amputation of his right thumb and some of his fingertips. He remained on a respirator and unconscious for weeks after the accident. *Id.* at \*3.

Heastie brought a three-count negligence action. Count III asserted a negligence claim based on the doctrine of *res ipsa loquitur*, which was dismissed by the circuit court. *Id.* at \*4. The appellate court reversed and remanded for a new trial, holding that Heastie had satisfied the elements of the doctrine. *Id.* at \*6. The defendants’ petition for leave to appeal to the Illinois Supreme Court was allowed. *Id.* at \*7.

The supreme court recognized that to establish a claim under the *res ipsa loquitur* doctrine, Heastie must plead and prove that he was injured: (1) in an occurrence that ordinarily does not happen in the absence of negligence, (2) by an agency or instrumentality within the defendant’s exclusive control. *Id.* at \*8, citing *Gatlin v. Ruder*, 137 Ill. 2d 284, 295, 560 N.E.2d 586 (1990). When addressing the second element, the key question was whether the probable cause of Heastie’s injury was one which the defendants were under a duty to Heastie to anticipate or guard against. *Heastie*, 2007 WL 3227199 at \*8. Finally, the court recognized that Illinois law no longer required Heastie to plead and prove freedom from contributory negligence under the doctrine of *res ipsa loquitur*. *Id.*

With regard to the first element, Heastie alleged that he was restrained and left alone in a hospital emergency room only to be exposed to an ignition source that set him on fire. The court reasoned that if a person catches fire, there must be some external source of negligence. Consequently, Heastie had sufficiently alleged the first element of the doctrine. *Id.* at \*8.

With regard to the second element, although the source of ignition was never ascertained, Heastie alleged he was put in the cast room by the defendants, the room was owned and maintained by the Hospital, and his condition was monitored and controlled exclusively by the defendants. Therefore, the cause of the fire appears to have been under the defendants’ exclusive control. The court noted that Heastie need not show that his injuries were more likely caused by one of the defendants, nor must he eliminate all causes of his injuries other

than the negligence of the defendants. *Id.* at \*9, citing *Collins v. Superior Air-Ground Ambulance Service, Inc.*, 338 Ill. App. 3d 812, 822-23, 789 N.E.2d 394 (1st Dist. 2003). Rather, while Illinois law normally requires the injury to be traced to a specific cause for which the defendant is responsible, it also authorizes the use of the *res ipsa* doctrine where it can be shown that the defendants were responsible for all reasonable causes of the accident, which is precisely what Heastie had alleged. *Heastie*, 2007 WL 3227199 at \*12. The court thus held that Heastie had sufficiently alleged the second element of the *res ipsa loquitur* doctrine. *Id.* at \*9.

In opposition, the defendants cited to *Dyback v. Weber*, 114 Ill. 2d 232, 242-43, 500 N.E.2d 8 (1986), and *Bernardi v. Chicago Steel Container Corp.*, 187 Ill. App. 3d 1010, 1013, 543 N.E.2d 1004 (1st Dist. 1989). In these decisions, the applicability of the *res ipsa loquitur* doctrine was rejected under circumstances where the origin of the fire was uncertain. The court distinguished those decisions because they did not turn on the sufficiency of the pleadings. Additionally, the court noted that the evidence in those cases supported plausible explanations for the fire other than the defendants' negligence. *Heastie*, 2007 WL 3227199 at \*9.

Additionally, the defendants argued that Heastie could not invoke *res ipsa loquitur* because he failed to provide expert testimony to support the proposition that hospital patients in his situation do not ordinarily catch fire absent some form of negligence. *Id.* The court rejected this argument noting that Illinois law does not require expert testimony in every *res ipsa* case. Specifically, Illinois trial courts are authorized to rely upon either "the common knowledge of laymen, if it determines that to be adequate" or upon expert medical testimony. *Id.* at \*11, citing 735 ILCS 5/2-1113 (West 2004).

Ultimately, the supreme court affirmed the appellate court's holding that the circuit court erred in dismissing count III of Heastie's complaint on the pleadings. The court held that Heastie stated a claim for negligence under the doctrine of *res ipsa loquitur*, and Heastie's claim did not require expert testimony. The cause was remanded to the circuit court for a new trial, with instructions. All justices weighing in the decision concurred in the judgment and opinion.

## About the Authors

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