

FALL 2021 NEWSLETTER

PREMISES LIABILITY

By George Lankford

Hudson v. Memorial Hospital System, 2021 Tex. App 2806, 2021 WL 1414283 (Tex. App.-Fort Worth, April 15, 2021)(01-19-00300-CV.)

This is a personal injury case wherein the plaintiff was an employee of Memorial Hospital System (MHS.) MHS was a nonsubscriber to the Texas workers compensation system. Plaintiff was injured when he was in an elevator at MHS, and it lurched while stopping. Plaintiff sued MHS for negligence. The court granted a summary judgment to MHS because the pleadings based liability on negligent maintenance rather than a condition of the premises. The court held that plaintiff's status as an employee did not inject new duties owed by the employer to the employee, and plaintiff did not plead them.

Premises liability is based on the condition of the premises being unreasonably dangerous, not the violation of a specific duty owed to the plaintiff by the employer.

We hold that, even though the summary-judgment evidence later showed that Memorial Hermann was her employer, Hudson's claim against Memorial Hermann, as pleaded, sounded only in premises liability. Hudson raised no claims against Memorial Hermann based on any duties that it owed her in its role as her employer.