

**SUPREME COURT OF LOUISIANA**

**NO. 01-C-1140**

**DONNA J. HILLMAN**

**Versus**

**COMM-CARE, INC. COMMUNITY CARE  
CENTER OF LEESVILLE**

Johnson, J., Dissenting

I disagree with the majority's conclusion that Ms. Hillman's relationship with the nursing home was that of an independent contractor. A reading of the trial transcript demonstrates that the duties performed by Ms. Hillman at the nursing home placed her in the category of an employee, thereby allowing her to collect workers' compensation benefits for her injuries sustained in the course and scope of her employment.

Ms. Hillman was hired to provide services to patients in defendant's nursing home. Although hired as a licensed beautician, Ms. Hillman also worked along side the nurse's aides and shared some of their duties in providing these services. In fact, she was in the process of lifting a patient from a wheelchair when she was injured. Ms. Hillman was under the direct control of the nursing home since she was not allowed to set her own fees or work hours. Instead, she was provided with a list each morning on the salon door listing the patients who needed services and what was to be done for them. The nursing home also provided a price list which Ms. Hillman testified she was mandated to follow. Ms. Hillman further testified that she was required to report to the nursing home at eight o'clock on Mondays and Wednesdays and would not leave the facility until all patients on the list were serviced.

In addition, Ms. Hillman was required to follow certain rules established by

the nursing home. She was even required to administer various medications to the patients for scalp disease or lesions as needed. It is apparent that Ms. Hillman was not merely providing a luxury service to the female patients who chose to use her services. She was also required to provide service to both male and female patients who were not ambulatory. For instance, under the order and direction of the nurses, Ms. Hillman would go to the rooms of Alzheimer's patients, skilled care unit patients and paraplegics, both male and female, who needed to be shaved and groomed. Clearly, these patients did not choose Ms. Hillman or contract with her for her services. I would affirm the lower courts which determined that Ms. Hillman had employee status and she should be allowed to collect under the workers' compensation statute.