

## INDIANA CASE: NURSING HOME COULD NOT COLLECT WIFE'S DEBT FROM HUSBAND'S ESTATE UNDER DOCTRINE OF NECESSARIES

In Indiana, a spouse can be obligated to pay for medical care received by the other spouse under the doctrine of necessities. The modern version of the doctrine of necessities imposes limited secondary liability upon the financially superior spouse when the other spouse is unable to pay for his or her necessary expenses using their separate funds. The liability is secondary in the sense that it exists only if the debtor spouse is unable to satisfy his or her own personal needs or obligations.

In a recent Indiana Court of Appeals case, *Hickory Creek at Connerville v. Estate of Otto K. Combs*, 21A04-1211-ES-600, the Court of Appeals held that a nursing home could not collect on expenses for a patient after her death from her husband's estate under the doctrine of necessities because the nursing home did not first work to collect from the patient or her estate.

In this case, Ms. Combs lived at the nursing home and accrued a private account balance of almost \$6,000. When Ms. Combs died, a probate estate was not opened by her family or the nursing home. When Ms. Combs' husband died, the nursing home filed a claim in his probate estate for the balance due to it from his wife's stay at the nursing home.

The Court of Appeals denied the nursing home's claim in Mr. Combs' estate, since the nursing home had failed to file a claim in Ms. Combs' estate. The nursing home was required to file a claim against Ms. Combs' estate to assess whether her assets were unable to satisfy her obligations, before pursuing Mr. Combs or his estate for the balance due. Since the nursing home did not take this step, the Court of Appeals denied the nursing home's claim.

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