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At Havasupai school in Grand Canyon, fired teacher paints a pattern of neglect –
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Monument memo unsettles advocates – [Santa Fe New Mexican](#) (09/19)

4 US monuments to be scaled back hold artifacts, key habitat – [Associated Press](#) (09/19)

Cherokee Nation Delivers Food, Water, Other Necessities to Texans Recovering From Hurricane Harvey – [Native News Online](#) (09/19)

MGM pitches Bridgeport casino as feds delay tribes' expansion – [Hartford Business](#) (09/19)

Backed by Civil Rights “Genius” Dr. Cornel West, Tribes Defy Storm, Bureaucracy & Deliver Name Change Declaration to Yellowstone – [Native News Online](#) (09/19)

Pine Ridge woman indicted for assault with intent to commit murder – [News Center 1](#) (09/18)

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Local gaming distributor suing state, says machines aren't gambling devices – [The Journal](#)

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Sunrise ceremony begins American Indian heritage week ad University of Montana – [The Missoulian](#) (09/18)

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DOI Recommendations To Shrink Monuments Draws Fire

Share us on: By **Andrew Westney**

Law360, New York (September 18, 2017, 8:08 PM EDT) -- Tribes, environmental groups and federal lawmakers on Monday assailed the U.S. Department of the Interior's recommendations that several national monuments be reduced in size, while Republican leadership slammed the leaking of the DOI's memo containing the recommendations.

In an August draft memorandum that was leaked to the press on Sunday, Interior Secretary Ryan Zinke called for the Bears Ears National Monument, Grand Staircase-Escalante National Monument and other monuments to be amended after President Donald Trump, who has called previous administrations' use of the Antiquities Act "abusive," told the DOI in an April executive order to review monuments designated or expanded by presidents under the law over roughly the last two decades.

Natalie Landreth of the Native American Rights Fund, which represents three of the five tribes in the Bears Ears Inter-Tribal Coalition that proposed the 1.35 million-acre Bears Ears monument in southeastern Utah, told Law360 on Monday that the DOI report is "totally untethered to the law in any way, shape or form."

While Zinke didn't suggest specific reductions to the monuments in the memo, saying they would be provided separately if the White House agreed with his recommendations, any such move would be illegal under the Antiquities Act, Landreth said.

"Presidents simply don't have the authority to shrink monuments," said Landreth. "Whether it's a light touch or a heavy hand, it's the same rule of law."

NARF represents the Hopi Tribe, Ute Mountain Ute Tribe and Pueblo of Zuni in the coalition, which also includes the Navajo Nation and the Ute Indian Tribe. The Bears Ears monument was designated as a national monument by former President Barack Obama in December.

Zinke also called in the memo for changes to the boundaries of the Gold Butte National Monument in Nevada, among others, while not recommending any changes to many others.

The memo recommended that the president consider adding three monuments, including Badger-Two Medicine in Montana, which Zinke said is sacred to the Blackfeet Nation, and that a co-management of a possible monument with the Blackfeet be considered.

The memo noted that public comments were “overwhelmingly in favor of maintaining existing monuments and demonstrated a well-orchestrated national campaign organized by multiple organizations.”

The Sierra Club attacked the memo in several statements on Sunday and Monday, saying the memo’s “vague, yet startling recommendations” show “a complete disregard for more than 2.8 million public comments — 98 percent urging to maintain the current and future protections.”

The White House said in a statement Monday that it “does not comment on leaked documents, especially internal drafts which are still under review by the president and relevant agencies.”

Natural Resources Committee Chairman Rob Bishop, R-Utah, said in a statement Monday that the leaking of the memo was “troubling and merits an immediate and thorough investigation.”

“The president should have the time to evaluate the secretary’s review and develop actions without the encumbrance of incomplete information being leaked to the press,” Bishop said.

Sens. Tom Udall and Martin Heinrich, both New Mexico Democrats, said in a statement Monday that Zinke’s memo “completely ignores New Mexicans’ overwhelming support for the monuments, and doesn’t even offer specifics and meaningful data to back up their vague recommendation,” and that “it’s clear this report is a politically driven attempt by Washington to justify the administration’s extreme position that public lands should be privatized, leased or sold to the highest bidder.”

Zinke **announced Aug. 24** that he had sent Trump his draft report. However, Zinke stayed mum at the time about exactly what findings and recommendations his report contained, publishing a summary that merely recapped the process that has occurred since the executive order was signed rather than the full report itself.

--Additional reporting by Christine Powell. Editing by Alanna Weissman.

Ariz. Tribe Says Feds Must Face Trust Mismanagement Suit

Share us on: By **Adam Lidgett**

Law360, New York (September 18, 2017, 3:30 PM EDT) -- The White Mountain Apache Tribeon Friday fought a partial dismissal bid of its suit claiming the federal government failed in its trust duty to the tribe by mismanaging its money and the forests on its sprawling Arizona reservation, hitting back at the government's attempt to toss claims prior to 2011.

The tribe urged the U.S. Court of Federal Claims to deny the federal government's bid to dismiss claims relating to the United States' alleged breach of trust by the government's purported mismanagement of trust funds and non-monetary trust assets before 2011, and wholly toss the claim regarding the alleged breach of trust by the purported mismanagement of dam maintenance and repair.

The White Mountain Apache, which occupies and governs the 1.67-million-acre Fort Apache Indian Reservation in eastern Arizona, called the government's bid to dismiss claims for violations before 2011 "extreme" and said the request isn't supported by case law. The tribe said that the request also conflicts with the way the court typically approaches similar "complex" cases — which is to allow discovery to move forward before addressing statute of limitations or other jurisdictional issues.

"Establishing when each of the alleged breaches of fiduciary duty occurred, and when the related claim accrued, requires discovery and fact analysis," the tribe said. "Following the close of discovery, the tribe will be prepared to more specifically state the nature of each claim and the time frame of liability. But at this early stage of proceedings it is premature to eliminate any of the tribe's claims."

The tribe filed its complaint against the federal government in March, **alleging that** the government had breached its fiduciary duties in overseeing the tribe's trust since 1946, including mismanaging its trust funds, holding back the tribe's timber business by failing to appropriately manage its forests and not taking care of dams on the reservation properly.

The tribe estimated at the time it filed the complaint that the value of the suit was \$200 million, but said it doesn't know the full extent of what it lost.

The tribe sought monetary damages under the Indian Tucker Act against the government for breaching its fiduciary duties to the tribe since 1946, as an earlier complaint filed with the Indian Claims Commission covered the tribe's claims up to that date, according to the complaint.

Counsel for the tribe declined to comment beyond the filing, and the federal government also declined to comment.

The White Mountain Apache Tribe is represented by Brian William Chestnut, Beth Baldwin and Wyatt Golding of the Ziontz Chestnut Law Firm and the tribe's Attorney General Jim Palmer.

The federal government is represented by Jeffrey H. Wood, Matthew Marinelli, Jacqueline Leonard, and Anthony P. Hoang of the U.S. Department of Justice, Kenneth Dalton, Michael Bianco and Joshua Edelstein of the U.S. Department of the Interior and Thomas Kearns of the U.S. Department of the Treasury.

The case is White Mountain Apache Tribe v. USA, case number 1:17-cv-00359, in the U.S. Court of Federal Claims.

--Additional reporting by Andrew Westney. Editing by Kelly Duncan.

Atty Tells Jury Tribe Grew Wary Of Racer's Payday Loan Plan

Share us on: By **Pete Brush**

Law360, New York (September 18, 2017, 5:47 PM EDT) -- An effort by racer Scott Tucker to involve California's Yurok tribe in a lending operation fizzled amid tribal concern it would have no role in the business except to “exist,” the Yuroks' former lawyer told a Manhattan jury Monday in the criminal fraud trial of Tucker and his attorney Timothy Muir.

Lisa Adams, a seasoned tribal lawyer was the Yuroks' in-house counsel from 2002 until 2006, took the stand as a second week of trial got underway before U.S. District Judge P. Kevin Castel.

Tucker and Muir each face 14 criminal counts, including fraud, racketeering and money laundering charges. They are accused of orchestrating a \$2 billion payday loan rip-off and entering into sham deals with tribes to shield themselves from law enforcement. The defendants counter that they followed the law and characterize the case against them as regulation by prosecution.

Adams told jurors that she was flown to Tucker's Kansas loan nerve center on his Lear Jet in the spring of 2004 along with tribal leaders, and went back to the Pacific Northwest hopeful that the tribe would be able to use the opportunity to counteract rampant unemployment.

The tribe signed a contract with Tucker to set up the operation, an accord that included “good faith” payments as the business was implemented, she said. But, Adams testified, Tucker's subsequent communications made it clear that the tribe was to have no role in the business — except potentially to forward mail.

“Was receiving and forwarding mail what you had in mind?” prosecutor Niketh Velamoor asked.

“Absolutely not,” Adams said.

Those concerns played a large role in the tribe's ultimate failure to pass legislation that

would have gotten the business running, she said, telling prosecutors that she ended up with the impression that the venture was not the economic development opportunity that the tribe had envisioned.

“He was going to run money through Indian country,” Adams said.

Under cross-examination from Tucker's counsel, Lee Ginsberg of Freeman Nooter & Ginsberg, Adams said she should could not remember whether the Yuroks ever made an effort to return nearly \$50,000 of “good faith” payments Tucker had made to them before the deal started to unravel in October of 2004.

She also conceded that the initial contract between Tucker and the tribe was a “valid agreement” and could not rule out other reasons why the deal might not have come to fruition — including the possibility that Tucker's own legal team had concerns about the scope of the tribe's involvement or that the tribal legislature had simply failed to follow through.

The trial has also featured testimony from borrowers and a onetime Tucker business ally. A **cooperating witness** who once worked as a senior manager for Tucker and Muir, Crystal Grote, took the stand briefly at the end of the day Monday. Her testimony was set to continue on Tuesday.

The government is represented by Niketh Velamoor, Hagan Scotten and Sagar Ravi of the U.S. Department of Justice.

Tucker is represented by James M. Roth of Stampur & Roth and Lee Ginsberg and Nadjia Limani of Freeman Nooter & Ginsberg. Muir is represented by Thomas J. Bath of Bath & Edmonds PA.

The case is U.S. v. Tucker et al., case number 1:16-cr-00091, in the U.S. District Court for the Southern District of New York.

--Editing by Emily Kokoll.

Calif. Court Nixes Suit Over Failed Tribal Casino Project

Share us on: By **Andrew Westney**

Law360, New York (September 18, 2017, 4:37 PM EDT) -- A California appellate court on Friday overturned a \$30 million award to a gaming developer in its suit over two agreements for the Shingle Springs Band of Miwok Indians' failed casino project, ruling a lower court lacked jurisdiction over the suit because it was preempted by the Indian Gaming Regulatory Act.

The Shingle Springs tribe had asked the court to reverse a California Superior Court ruling in favor of Sharp Image Gaming Inc., arguing the lower court wrongly failed to determine whether a 1997 equipment lease agreement and a related promissory note were management agreements that would fall within the scope of IGRA, and thus lie beyond the court's jurisdiction. Following the lower court's ruling, a jury awarded \$30 million to Sharp Image for breach of contract of those agreements.

A unanimous California Court of Appeal panel said in an opinion Friday that the lower court should have considered the issue raised by the tribe, and that the equipment agreement and the note were in fact contracts connected with the management of the tribe's proposed casino project that had to receive approval from the National Indian Gaming Commission under IGRA.

"Because these agreements were not approved by the NIGC chairman as required by IGRA and are consequently void under federal law, Sharp Image's action is preempted by IGRA and thus, the trial court did not have subject matter jurisdiction," according to the opinion.

California-based Sharp Image and the tribe entered the equipment lease agreement and the promissory note in 1997 to replace a 1996 agreement for the company to fund the tribe's planned Crystal Mountain Casino. Under the revised deal, the company agreed to advance the tribe all needed funds to build the casino under a tent, as well as equipment for the casino, with the tribe to pay back the funds at a 12 percent annual interest rate.

The casino opened for only one night but was closed for safety reasons, and the tribe never built a permanent casino at the site due to road access issues, according to the opinion.

Sharp Image filed suit in March 2007, alleging the tribe breached the agreements.

The NIGC's acting general counsel then issued an advisory opinion letter at the tribe's request in June 2007, saying that the 1996 and 1997 agreements were both management contracts and therefore void without approval of the agency's chairman, which had never been obtained.

But the trial court rejected the tribe's bid to throw out the suit in November 2009, saying that because the tribe had terminated the contracts, the NIGC lacked jurisdiction to act on them. The lower court didn't reach the tribe's central argument that the agreements were management contracts and that the promissory note was a collateral agreement to a management contract, both being subject to IGRA.

After Sharp Image dismissed all its claims except breach of contract claims connected with the 1997 equipment lease agreement and note, a jury awarded the company over \$20 million for violations of the first agreement and more than \$10 million for violation of the second agreement.

The tribe argued on appeal that IGRA preempted all of the company's contract claims, backed by an amicus brief from the federal government.

The appeals court said Friday that the trial court couldn't rule on whether Sharp Image's claims were preempted by IGRA without first determining if the agreements constituted management contracts, and that the trial court wrongly used the tribe's repudiation of the agreements as a basis to avoid ruling on that issue.

"It does not make a difference under the IGRA scheme whether an agreement is later repudiated, because an unapproved management contract is always void ab initio," the court said. "And an unapproved management contract is nevertheless still a management contract within the statutory and regulatory meaning; thus, litigation related to that contract falls squarely within the preemptive force of IGRA."

The trial court also "should not have simply ignored the NIGC interpretations of the statute and its own governing regulations" on the management contract issue in the agency's opinion letter and a subsequent decision letter, the panel said.

The 1997 agreement didn't much look like a consulting contract or a traditional lease, and instead showed strong indications that it is a management contract, including a significant level of control for the company over how the casino was laid out and the mix of machines used, the five-year term of the deal, and the tribe's obligation to pay 30 percent of net gaming revenues to the company, the court said.

Shingle Springs Band Chairman Nicholas Fonseca said in a statement Friday that the decision was "a victory for all tribes in California."

Representatives for Sharp Image Gaming and the federal government were not immediately available to comment Monday.

Justices William J. Murray Jr., George Nicholson and Elena J. Duarte sat on the panel for the court.

Sharp Image Gaming is represented by Todd M. Noonan of DLA Piper.

The tribe is represented by Paula M. Yost and Ian R. Barker of Dentons; James M. Wagstaffe, Daniel A. Zaheer and Kevin B. Clune of Kerr & Wagstaffe; and Mary Kay Lacey.

The federal government is represented by Robert G. Dreher, John L. Smeltzer, Aaron P. Avila and Avi M. Kupfer for the U.S. Department of Justice as amici on behalf of the tribe.

The case is Sharp Image Gaming Inc. v. The Shingle Springs Band of Miwok Indians, case number C070512, in the Court of Appeal of the State of California, Third Appellate District.

--Editing by Catherine Sum.

Wind Farm Needed Osage Nation Lease, 10th Circ. Says

Share us on: By **Keith Goldberg**

Law360, New York (September 18, 2017, 3:30 PM EDT) -- The Tenth Circuit said on Monday that wind farm developers should have gotten a mineral lease from the Osage Nation and approval from the Bureau of Indian Affairs before engaging in surface construction of an Oklahoma wind farm, reversing a lower court decision.

An Oklahoma federal judge **in 2015** rejected arguments that digging holes to build foundations for turbines of an Osage County, Oklahoma wind farm amounted to mineral development, and that the construction activities interfered with the Osage Nation's reserved mineral rights. But a Tenth Circuit panel said that the excavation performed by developers Osage Wind LLC, Enel Kansas LLC and Enel Green Power North America Inc., which included supporting turbines with rocks dug up from the holes they were placed in, constituted "mineral development" as defined by BIA regulations, and thus required a mineral lease from the Osage Nation and a permit from the BIA.

While digging holes in the ground for wind turbines doesn't constitute "mineral development," the developers' use of what they dug up does, the appeals court said in its opinion.

"The problem here is that Osage Wind did not merely dig holes in the ground — it went further," the opinion stated. "It sorted the rocks, crushed the rocks into smaller pieces, and then exploited the crushed rocks as structural support for each wind turbine."

While providing structural support for wind turbines isn't thought of as a typical mining operation, the BIA's regulations contain enough ambiguity about the scope of "mining development" that the Tenth Circuit said it would adopt the broader interpretation of the Osage Nation.

The federal government originally sued the wind farm developers in November 2014, arguing that the construction activities interfered with the Osage Nation's reserved mineral rights under the Osage Allotment Act.

The act separated the mineral estate from the surface estate of the Osage Reservation and put it into trust for the tribe. The Osage Minerals Council handles negotiations of mineral leases while the BIA administers many of the government's trust duties related to the mineral estate.

But U.S. District Judge James H. Payne said that the excavation work for the turbines' foundations did not constitute mining that would require a lease or a permit as the minerals that were dug up were either replaced or left on the surface at no loss to the mineral owner.

The government's argument on the definition of mining would "cover such a broad range of activity as to render the term meaningless" and potentially require approvals for all manners of construction projects involving digging and backfilling, Judge Payne said.

The federal government decided not to pursue an appeal, but the Osage Mineral Council, which didn't participate in the original suit, pursued an appeal on behalf of the Osage Nation. That was allowed, the Tenth Circuit said Monday, since the federal government was representing the Osage Nation's interests throughout the lower court case, and the Osage Mineral Council only found out at the last minute that the federal government wasn't pursuing an appeal.

In reversing the lower court ruling, the Tenth Circuit rejected the wind developers' argument that classifying their work as mineral development contradicts the Osage Allotment Act. While many surface construction activities can impact the mineral estate, they don't all constitute "mining" under BIA regulations, as the Tenth Circuit said it clarified in outlining the wind turbine work performed by the developers.

What's more, the BIA itself exempts the use of less than 5,000 cubic yards of common-variety minerals from being defined as "mining," the Tenth Circuit said.

"Thus, in practice, owners of the surface estate retain virtually uninhibited use of their lands, unless of course they seek to develop more than 5,000 cubic yards of common-variety minerals," the opinion stated. "But in that scenario, the BIA has reasonably concluded that development of such minerals goes beyond mere use of the surface estate and implicates the mineral estate reserved to the Osage Nation."

With the wind farm already built, Fredericks Peebles & Morgan LLP partner and Osage

Mineral Council attorney Jeffrey Rasmussen said the developers now face the difficult situation of having to negotiate a new lease with the Osage Nation.

"I see it as a big cautionary tale for developers that are coming onto the reservation, that they need to look at this and be sure they get the tribe's consent when they need it," he told Law360 Monday.

Counsel for the developers couldn't be immediately reached for comment.

Circuit Judges Mary Beck Briscoe, David M. Ebel and Gregory A. Phillips sat on the panel for the Tenth Circuit.

The Osage Mineral Council is represented by Jeffrey S. Rasmussen, Rebecca Sher and Peter J. Breuer of Fredericks Peebles & Morgan LLP.

Osage Wind is represented by Ryan J. Ray of Norman Wohlgemuth Chandler Jeter Barnett & Ray PC, and Lynn H. Slade and Sarah M. Stevenson of Modrall Sperling Roehl Harris & Sisk PA.

The lead case is U.S. v. Osage Wind LLC et al., case number 15-5121, in the U.S. Court of Appeals for the Tenth Circuit.

--Additional reporting by Vidya Kauri. Editing by Adam LoBelia.

Update: This story was updated with comment from counsel for the Osage Mineral Council.

SD Can Tax Nontribal Members In Store, But Not Casino

Share us on: By **Adam Lidgett**

Law360, New York (September 18, 2017, 1:17 PM EDT) -- A South Dakota federal judge ruled on Friday that the state can't impose a use tax on money nontribal members spend at the Flandreau Santee Sioux Tribe's casino on gaming, food and other services, but said the same tax can be imposed on nonmember purchases at a store on the tribe's reservation.

U.S. District Judge Lawrence L. Piersol granted in part and denied in part both the tribe's and the state's summary judgment bids in their tax dispute, granting the tribe's bid to the extent that the use tax can't be imposed on nonmember purchases of goods and services at the Royal River Casino & Hotel's slots, table games, hotel, live entertainment venue and gift shop.

However, the judge wrote that the state can impose that tax on nonmember purchases at the tribe's First American Mart, which the tribe operates along with the casino as a single business entity.

"The tribe has not presented sufficient evidence to the court to show that the store is sufficiently complementary to gaming, thus the court finds that the store, though it may benefit from its proximity to the casino, is not in existence but for the tribe's operation of a casino and it cannot be said that the only substantial purpose of a convenience store is to facilitate gaming," the judge wrote.

Additionally, the judge wrote that South Dakota can't condition the renewal of the tribe's beverage license on the collection of a use tax on nonmember consumer purchases.

The Flandreau Santee Sioux sued South Dakota in November 2014, claiming the state had no authority to make the renewal of its liquor licenses for the properties on the tribe's Moody County reservation contingent on collecting state taxes that the tribe says it does not owe.

The state and the tribe **both pushed for quick wins** in the tribe's suit on Feb. 10, with the state contending that the Indian Gaming Regulatory Act doesn't preempt the collection of its use tax on purchases by those who aren't members of the tribe at the casino, the store and

the Royal River Family Entertainment Center.

The tribe **said in March** that the IGRA and related regulations “pervade the entirety of tribal casino operations,” and that on the tribe’s reservation, the state lacks the power to grant nonmember customers the privilege of using any property or services.

Meanwhile, South Dakota has insisted that its tax, as well as state alcohol licensing laws challenged by the tribe, fall outside of the IGRA’s preemptive scope because the law’s “prohibition on taxation is only related to a tax on the actual play of games.”

“We’re very pleased with the court’s decision and believe that it’s a step forward in ensuring that tribes in South Dakota are able to engage in economic endeavors with the benefit of federal law and Supreme Court precedence that have been applied to all other tribes in the country,” Rebecca L. Kidder, an attorney for the tribe, told Law360 on Monday.

A spokesperson for the South Dakota Department of Revenue, the secretary of which was named as a defendant, said the department is still reviewing the decision but declined to comment further.

The tribe is represented by Ronald A. Parsons Jr., Steven M. Johnson and Shannon R. Falon of Johnson Janklow Abdallah Reiter & Parsons LLP, and Rebecca L. Kidder, John M. Peebles, Steven J. Bloxham, John Nyhan and Tim Hennessy of Fredericks Peebles & Morgan LLP.

South Dakota is represented by Kirsten E. Jasper and Matthew E. Naasz of the state attorney general’s office and Stacy R. Hegge of the South Dakota Department of Revenue.

The case is Flandreau Santee Sioux Tribe v. Gerlach et al., case number 4:14-cv-04171, in the U.S. District Court for the District of South Dakota.

--Additional reporting by Andrew Westney. Editing by Jack Karp.

Tribal Hospital Accused Of Negligence In Patient Death

Share us on: By **Dave Simpson**

Law360, New York (September 18, 2017, 5:42 PM EDT) -- The estate of a woman who died at Fort Defiance Indian Hospital filed a wrongful death suit against the tribal medical center and several of its doctors and nurses in Arizona federal court, claiming the woman was not adequately protected from the fall that ultimately killed her.

The mother of Chantal Moore, who died at 27 years old a week after checking into Fort Defiance with pneumonia in 2014, said Thursday that the hospital and its staff let her go to the bathroom unsupervised, where she ultimately fell, despite assessing her as a high risk for falling upon arrival.

“As a direct and proximate result of the negligence of the defendants, Chantal Moore suffered a neurologically devastating brain injury, which directly led to her death on February 15, 2014,” the complaint said.

Moore’s family is seeking unspecified damages and relief under the Federal Tort Claims Act, from Fort Defiance, a handful of its employees, and the U.S. government, for any federal employees associated with the alleged negligence.

In 2014, Moore was diagnosed with pneumonia upon entering the hospital, after showing a week’s worth of symptoms like muscle weakness, fatigue and a cough, the complaint alleges. A nurse assessed her as a 55 on the Morse Fall Scale, the complaint says while noting that anything above a 50 on the scale is considered a high risk for a fall.

A few days later, according to the complaint, a nurse found Moore sitting on the floor of her room. She’d fallen but was alert and denied hitting her head, the complaint said. Despite the fall, the complaint said, hospital employees did not update her Morse Fall Scale score.

A physical therapist then independently determined that Moore was a fall risk and requested a walker be placed next to her bed, the complaint said.

“Under the Morse Fall Scale the need for an assistive device raises the risk of fall on the

risk assessment score,” the complaint said.

Later that day, a doctor encouraged Moore to go to the bathroom and she was assisted to the restroom by the doctor and the nurse, who then left Moore by herself.

“Nurse Oster, who was sitting at the nursing station, heard a loud noise coming from Ms. Moore’s restroom,” the complaint said. “Nurse Oster, upon returning to the room, found Ms. Moore having had suffered a violent fall, and actively seizing on the floor of the bathroom. Ms. Moore was found to have suffered a large bump on the back of her head from the fall.”

Moore was given a CT scan and doctors found hemorrhaging in her brain.

“At the time, Ms. Moore was mumbling and drooling with spontaneous eye movement,” the complaint said.

She responded little or not at all to verbal and visual tests, the complaint said. That night she was transferred to a different hospital, Flagstaff Medical Center, where a doctor explained to the family that the situation was critical and that Moore had suffered “neurological devastation,” the complaint said.

“[The doctor] reported that Ms. Moore was left with only brain stem function intact,” the complaint said, “and it was subsequently explained to the family that a person with only brain stem functioning cannot see, speak, or have any personality. The decision had been made to withdraw Ms. Moore from the ventilator mid-day on February 15, 2014.”

The family claimed that the hospital did not do enough to supervise its employees. It said that the staff failed to properly assess Moore’s fall risk and that it did not put proper precautions in place to prevent a fall.

The hospital did not immediately respond to request for comment Monday.

The estate is represented by Frank Verderame and Nicholas A. Verderame of Plattner Verderame PC.

Representation for the hospital wasn't immediately known Monday.

The case is Watchman-Moore et al v. U.S.A. et al., case number 3:17-cv-08187, in the U.S. District Court for the District Arizona.

--Editing by Orlando Lorenzo.