

SUPREME COURT OF NEW JERSEY

Matynska v. Fried, 175 N.J. 51

811 A.2d 456 (2002) · Decided December 18, 2002

SUMMARY

The New Jersey Supreme Court affirmed the denial of Helena Matynska's motion to amend her medical malpractice complaint to substitute Dr. Mark Feierstein for a fictitious defendant. The court held that Matynska failed to exercise due diligence because Feierstein's involvement appeared in her hospital records and could have been discovered before the statute of limitations expired. Although the court criticized defense counsel's allegedly misleading discovery responses, it concluded that those tactics did not alter the result because Matynska had failed to meet her primary investigative obligation.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Chief Justice Poritz; Justice Coleman; Justice Long; Justice Verniero; Justice LaVecchia; Justice Zazzali; Justice Albin
JURISDICTION	New Jersey
DECIDED	December 18, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff sought certification after the trial court denied her motion to amend the complaint to substitute Dr. Mark Feierstein for a fictitious John Doe defendant under New Jersey Court Rule 4:26-4. The Appellate Division affirmed, and the Supreme Court of New Jersey affirmed.
STANDARD OF REVIEW	Whether the lower courts properly denied leave to amend the complaint under New Jersey Court Rule 4:26-4 based on the plaintiff's lack of timely due diligence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Helena Matynska v. Steven H. Fried, M.D., Michael Azzoni, M.D., David Adams, M.D., Erwin Mermelstein, M.D.

TOPICS

- motion to amend
- statute of limitations
- medical malpractice
- civil procedure
- appellate procedure

PRACTICE AREAS

civil procedure

medical malpractice

appellate procedure

QUESTIONS PRESENTED

1. Whether Matynska exercised sufficient due diligence to substitute Dr. Feierstein for a fictitious defendant under New Jersey Court Rule 4:26-4 after the limitations period had expired or nearly expired.
2. Whether the defendants' allegedly misleading interrogatory and deposition responses required permitting the amendment despite Matynska's failure to investigate Dr. Feierstein's involvement timely.

HOLDINGS

1. A plaintiff may not use the fictitious-party procedure to add a defendant when the plaintiff failed to investigate the potentially responsible party with reasonable diligence before the expiration of the limitations period or within a reasonable time thereafter.
2. Later allegedly obfuscatory or misleading discovery responses do not alter the disposition where the plaintiff independently failed to satisfy her primary obligation to investigate the defendant's involvement diligently and timely.

KEY QUOTATIONS

“She had an obligation to investigate all potentially responsible parties in a timely manner but did not do so.”
(811 A.2d 457)

“In short, Matynska failed to cross the due diligence threshold, and thus the lower courts properly denied her the right to amend the complaint.” (811 A.2d 457)

“We nevertheless caution attorneys to avoid such conduct or risk the potential consequences.” (811 A.2d 458)

FACTUAL BACKGROUND

Helena Matynska suffered complications after hip-replacement surgery and attributed them to negligent postoperative medical treatment. Dr. Mark Feierstein covered hospital rounds for his partner, Dr. Steven Fried, for nearly three days after the surgery, and his name appeared twice in Matynska's hospital chart. Matynska claimed she did not timely learn of his role because she had not met him, was not told he would cover for Fried, and the chart references were brief and vague.

PROCEDURAL HISTORY

Matynska filed a medical-negligence action against a hospital, multiple physicians and nurses, and fictitious defendants. Approximately two years after filing suit and four years after the alleged negligence, she moved to substitute Dr. Feierstein for a fictitious physician defendant. The trial court denied the motion, the Appellate Division affirmed, and the Supreme Court granted certification and affirmed.

DISPOSITION

affirmed

CASES CITED

- Matynska v. Fried, 171 N.J. 442, 794 A.2d 181 (2002)

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