

SUPREME COURT OF SOUTH CAROLINA

Hollman v. Woolfson, 384 S.C. 571

683 S.E.2d 495 (2009) · No. No. 26725 · Decided September 21, 2009

SUMMARY

The Supreme Court of South Carolina reviewed a circuit court order allowing plaintiffs in medical-malpractice, fraud, and Unfair Trade Practices Act actions to contact and interview nonparty patients whose medical records had been produced in discovery. The court held that the patients’ privacy interests constituted particularized harm and that the interviews were not shown to be relevant and necessary, or unavailable through reasonable alternatives. It granted certiorari and vacated the order permitting the interviews.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Waller; Justice Pleicones; Justice Beatty; Justice Kittredge
JURISDICTION	South Carolina
DECIDED	September 21, 2009
DOCKET	No. 26725
DISPOSITION	vacated
PROCEDURAL POSTURE	Petition for a writ of certiorari seeking review of a circuit-court order modifying a protective order to permit respondents to contact and interview nonparty patients whose identities and medical records had been disclosed in discovery.
STANDARD OF REVIEW	On certiorari, the court reviews only errors of law and does not review factual findings unless they are wholly unsupported by the evidence. Discovery rulings are reviewed for clear abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Carolina; precedential.
PARTIES	Dr. Jonathon Woolfson, TLC The Laser Center (Institute), Inc., TLC Laser Eye Centers (Piedmont/Atlanta) LLC v. John Hollman, Danielle Hollman, George E. Carter, Jr., Jean Carter

TOPICS

discovery dispute

medical records privacy

writ of certiorari

medical malpractice

civil procedure

PRACTICE AREAS

civil procedure

medical malpractice

health law

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by permitting respondents to contact and interview nonparty patients whose identities and medical records had been disclosed in discovery.
2. Whether respondents demonstrated that the nonparty-patient interviews were relevant and necessary to their medical-malpractice, fraud, and Unfair Trade Practices Act claims.
3. Whether the privacy interests and particularized harm to nonparty patients outweighed respondents' asserted need for direct interviews.

HOLDINGS

1. Evidence concerning the treatment of other patients was irrelevant to proving that petitioners breached the standard of care in treating respondents and therefore did not justify interviews with the nonparty patients.
2. The treatment received by nonparty patients was irrelevant to respondents' fraud claims because there was no evidence that those patients were victims of fraud and their experiences could not establish the elements of fraud committed against respondents.
3. Respondents failed to show with specificity how the absence of interviews with nonparty patients would impair their UTPA claim to the point that an unjust result was a real threat, or that no reasonable alternative means of discovery existed.
4. The circuit court abused its discretion by allowing respondents to interview the nonparty patients because the patients faced particularized privacy harm and respondents did not establish that the interviews were relevant and necessary.

KEY QUOTATIONS

“The nonparty patients have a valid and legitimate expectation that their medical information will remain confidential which outweighs respondents' intent to use this personal information to buttress their claims by showing a propensity by petitioners for malpractice.” (578)

“Respondents failed to demonstrate with specificity what information they seek or how the lack of interviews with the nonparty patients will impair the presentation of their case to the extent that an unjust result is a real threat.” (581)

“Therefore, the order of the circuit court allowing respondents to interview the nonparty patients is VACATED.” (582)

FACTUAL BACKGROUND

The underlying consolidated actions arose from LASIK eye surgeries and asserted medical-malpractice, fraud, and breach-of-contract claims. The circuit court ordered petitioners to produce unredacted medical records of nonparty patients and initially prohibited respondents from contacting those patients. The circuit court later permitted respondents to interview the nonparty patients, subject to privacy safeguards, after finding the interviews relevant and necessary to certain claims.

PROCEDURAL HISTORY

The circuit court compelled production of unredacted medical records of nonparty patients and entered a protective order prohibiting contact with those patients. The court later modified the order to allow interviews, and after a prior remand from the Supreme Court of South Carolina to determine whether the interviews were necessary, again found the interviews necessary for respondents' fraud and UTPA claims and their responses to statute-of-frauds and statute-of-repose defenses. The Supreme Court granted certiorari and vacated the order permitting the interviews.

DISPOSITION

vacated

CASES CITED

- Hollman v. Woolfson, Op. No. 2009-MO-025 (S.C. Sup. Ct. filed May 28, 2009)
- Laffitte v. Bridgestone Corp., 381 S.C. 460, 674 S.E.2d 154 (2009)
- S.C. Bd. of Exam'rs in Optometry v. Cohen, 256 S.C. 13, 180 S.E.2d 650 (1971)
- Dunn v. Dunn, 298 S.C. 499, 381 S.E.2d 734 (1989)
- Hamm v. S.C. Pub. Serv. Comm'n, 312 S.C. 238, 439 S.E.2d 852 (1994)
- Doe v. Am. Red Cross Blood Servs., 297 S.C. 430, 377 S.E.2d 323 (1989)
- Schnellmann v. Roettger, 373 S.C. 379, 645 S.E.2d 239 (2007)
- Singleton v. Stokes Motors, Inc., 358 S.C. 369, 595 S.E.2d 461 (2004)