

SUPREME COURT OF IOWA

Melissa Stender v. Anthony Zane Blessum

Stender v. Blessum · No. No. 15-2016 · Decided June 16, 2017

SUMMARY

The Iowa Supreme Court reviewed a civil action involving claims against a former attorney for legal malpractice, assault and battery, punitive damages, and breach of fiduciary duty. The court held that violations of the Iowa Rules of Professional Conduct do not establish legal malpractice per se, although they may be evidence of negligence when an underlying actionable claim exists. The court affirmed the district court's rulings, including directed verdicts on certain claims and the jury's damages award.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Zager, Justice
JURISDICTION	Iowa
DECIDED	June 16, 2017
DOCKET	No. 15-2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a jury trial on claims arising from an attorney-client relationship and an assault, the Iowa District Court directed verdicts for Blessum on two legal-malpractice theories and a breach-of-fiduciary-duty theory, submitted other claims to the jury, and entered judgment on a verdict awarding Stender \$398,562.44 in actual damages and \$100,000 in punitive damages. Stender appealed and Blessum cross-appealed the damages award.
STANDARD OF REVIEW	Directed-verdict rulings are reviewed for correction of errors at law, viewing the evidence and reasonable inferences in the light most favorable to the nonmoving party. Evidentiary rulings are reviewed for abuse of discretion. Excessive-damages claims are reviewed under an abuse-of-discretion standard, with the evidence viewed in the light most favorable to the plaintiff or verdict.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential.

PARTIES

Melissa Stender v. Anthony Zane Blessum, Minnesota Lawyers
Mutual Insurance Co. (intervenor-appellee)

TOPICS

professional negligence

evidence

appellate procedure

punitive damages

damages

PRACTICE AREAS

professional negligence

legal malpractice

evidence

appellate procedure

damages

QUESTIONS PRESENTED

1. Whether an attorney's violation of Iowa Rule of Professional Conduct 32:1.8(j), prohibiting most sexual relationships with clients, establishes a per se legal-malpractice claim.
2. Whether Stender presented sufficient evidence of legal malpractice in Blessum's preparation of her will.
3. Whether a sexual relationship between an attorney and client, without sufficient proof of a nexus to the legal representation, establishes an independent breach-of-fiduciary-duty claim.
4. Whether the district court abused its discretion in limiting expert testimony concerning the attorney-client sexual relationship and professional-conduct rules.
5. Whether evidence from Blessum's disciplinary proceeding was relevant or entitled to preclusive effect in the civil action.
6. Whether the district court properly admitted redacted medical records and testimony from Blessum's estranged wife.
7. Whether Blessum's cross-appeal and motion for a new trial on damages were timely and, alternatively, whether the damages award was excessive.

HOLDINGS

1. A violation of an Iowa Rule of Professional Conduct cannot, by itself, establish a per se claim for legal malpractice. The violation may be used as some evidence of negligence only when an underlying actionable claim exists based on the attorney's handling of a legal matter.
2. The directed verdict on the will-preparation malpractice claim was proper because Stender presented no expert testimony establishing that Blessum's will preparation fell below the standard of care, identified no defect in the will, and presented no evidence of injury or loss separate from the assault-related damages.
3. A sexual relationship between an attorney and client, standing alone, does not establish an independent breach-of-fiduciary-duty claim. The client must show a causal nexus between the sexual relationship and a breach of a fiduciary obligation within the scope of the legal representation, such as loyalty, confidentiality, honesty, or adverse use of powers arising from the attorney-client relationship.
4. The district court properly excluded proposed expert testimony concerning whether the sexual relationship violated professional-conduct rules, whether it independently established breach of fiduciary

duty, and whether a client could consent to such a relationship because those subjects were irrelevant to the malpractice claims submitted to the jury.

5. The district court did not abuse its discretion by excluding disciplinary-case documents and the ethics opinion as irrelevant to the malpractice claims submitted to the jury, and it properly limited issue preclusion to facts necessary and essential to the disciplinary judgment.
6. The district court did not abuse its discretion by admitting relevant, redacted medical records and Jan Blessum's rebuttal testimony concerning Stender's relationship with Blessum and potential damages.
7. Blessum's motion for remand and cross-appeal seeking a new trial on damages were untimely. Even reaching the merits, the jury's actual and punitive damages award was within the range supported by the evidence and was not flagrantly excessive or inadequate.

KEY QUOTATIONS

“Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached.” (at 13-14)

“We likewise choose to adopt the majority approach and hold that a violation of one of our Iowa Rules of Professional Conduct cannot be used to establish a per se claim for legal malpractice.” (at 17)

“Claims of fiduciary breach also require a similar analysis, and require that the breach of a fiduciary obligation of loyalty or confidentiality must relate to the alleged sexual contact by the attorney.” (at 25-26)

“AFFIRMED.” (at 41)

FACTUAL BACKGROUND

Stender retained Blessum to represent her in a divorce and later sought his assistance concerning a will and a potential assault claim against her former husband. While representing her, Blessum began a sexual relationship with Stender and later assaulted her at his home; he pleaded guilty to assault causing bodily injury. Stender sued him, alleging malpractice and fiduciary breaches in addition to assault and battery. The jury rejected the submitted malpractice claims but awarded Stender substantial actual and punitive damages for the assault and battery.

PROCEDURAL HISTORY

Stender sued her former attorney for legal malpractice, breach of fiduciary duty, assault and battery, punitive damages, and other claims. The district court dismissed or directed verdicts on several claims, submitted two legal-malpractice claims, assault and battery, and punitive damages to the jury, and the jury found for Blessum on malpractice but for Stender on assault, battery, and punitive damages. Stender appealed the directed verdicts and evidentiary rulings; Blessum cross-appealed for a new trial on damages. The Supreme Court of Iowa retained the appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hook v. Trevino, 839 N.W.2d 434, 439 (Iowa 2013)
- Ruden v. Jenk, 543 N.W.2d 605, 610-12 (Iowa 1996)
- Vossoughi v. Polaschek, 859 N.W.2d 643, 649-50 (Iowa 2015)
- Faber v. Herman, 731 N.W.2d 1, 7 (Iowa 2007)
- Crookham v. Riley, 584 N.W.2d 258, 266 (Iowa 1998)
- Trobaugh v. Sondag, 668 N.W.2d 577, 580 (Iowa 2003)
- Sabin v. Ackerman, 846 N.W.2d 835, 839 (Iowa 2014)
- Barker v. Capotosto, 875 N.W.2d 157, 167 (Iowa 2016)
- Millwright v. Romer, 322 N.W.2d 30, 32 (Iowa 1982)
- Kling v. Landry, 686 N.E.2d 33, 39-40 (Ill. App. Ct. 1997)
- Cecala v. Newman, 532 F. Supp. 2d 1118, 1135 (D. Ariz. 2007)
- Tante v. Herring, 453 S.E.2d 686, 695 (Ga. 1994)
- Guiles v. Simser, 826 N.Y.S.2d 484, 485-86 (App. Div. 2006)
- Suppressed v. Suppressed, 565 N.E.2d 101, 105 (Ill. App. Ct. 1990)
- Iowa Supreme Court Attorney Disciplinary Board v. Blessum, 861 N.W.2d 575, 577, 588-91 (Iowa 2015)
- Comes v. Microsoft Corp., 709 N.W.2d 114, 117-18 (Iowa 2006)
- Winger v. CM Holdings, L.L.C., 881 N.W.2d 433, 451 (Iowa 2016)
- Iowa Supreme Court Attorney Disciplinary Board v. Stowers, 823 N.W.2d 1, 8 (Iowa 2012)
- Fagen v. Grand View University, 861 N.W.2d 825, 832-36 (Iowa 2015)
- Mercer v. Pittway Corp., 616 N.W.2d 602, 612 (Iowa 2000)
- Kuta v. Newberg, 600 N.W.2d 280, 284 (Iowa 1999)
- Smith v. Iowa State University, 851 N.W.2d 1, 31 (Iowa 2014)

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