

SUPREME COURT OF IOWA

Mark H. Andrew, M.D. v. Hamilton County Public Hospital d/b/a  
Van Diest Medical Center

No. 20–0023 · No. No. 20–0023 · Decided June 4, 2021

SUMMARY

The Iowa Supreme Court reversed and remanded the denial of a hospital’s motion for partial summary judgment on a physician’s defamation and Iowa Wage Payment Collection Law claims. The court held that statements in reports to the Iowa Board of Medicine were nonactionable opinions and that the physician had not performed unpaid work supporting a statutory wage claim. The court remanded for entry of judgment for the hospital on both claims.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Iowa                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Oxley, J.; all justices joined                                                                                                                                                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | Iowa                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| DECIDED               | June 4, 2021                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | No. 20–0023                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | The hospital sought interlocutory review of the Iowa district court's denial of its motion for partial summary judgment on Dr. Andrew's defamation and Iowa Wage Payment Collection Law claims.                                                                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | Summary judgment rulings are reviewed for correction of errors at law. The record is viewed in the light most favorable to the nonmoving party, and summary judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. In defamation cases, courts have a special responsibility to determine whether sending the case to a jury would endanger First Amendment freedoms. |
| PRECEDENTIAL VALUE    | published Iowa Supreme Court opinion; precedential                                                                                                                                                                                                                                                                                                                                                                                                    |
| PARTIES               | Hamilton County Public Hospital d/b/a Van Diest Medical Center v. Mark H. Andrew, M.D.                                                                                                                                                                                                                                                                                                                                                                |

## TOPICS

defamation wage and hour employment contracts standard of review appellate procedure

## PRACTICE AREAS

defamation employment law wage and hour medical licensing appellate procedure

## QUESTIONS PRESENTED

1. Whether statements in the hospital's reports to the Iowa Board of Medicine were actionable defamatory statements or protected opinions.
2. Whether the factually accurate statements in the National Practitioner Data Bank report were defamatory.
3. Whether Dr. Andrew's claim for ninety days of compensation under the contract constituted a claim for wages or severance pay under the Iowa Wage Payment Collection Law.

## HOLDINGS

1. The challenged statements were nonactionable opinions because, when read in their literary and social context, they expressed concerns and recommendations for further investigation based on undisputed facts rather than asserting provably false facts.
2. The claim based on the National Practitioner Data Bank report failed as a matter of law because the report contained only a factually accurate recitation and Dr. Andrew identified no false statement.
3. The Iowa Wage Payment Collection Law did not apply because Dr. Andrew did not perform work during the ninety-day period and his claim sought contract damages, not wages for services rendered or severance pay based on past services.

## KEY QUOTATIONS

*"Opinion is absolutely protected under the First Amendment."* (9)

*"Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas."* (13)

*"The challenged statements in Dr. Altman's reports to the IBM reflect his opinions about the concerns raised by the undisputed facts and therefore are not actionable as defamation."* (19)

*"The result is that [Dr. Andrew] does not have a Wage Law claim; he has a common-law cause of action for damages under his breach of contract claim."* (22)

## FACTUAL BACKGROUND

Dr. Mark Andrew, a general surgeon employed by Van Diest Medical Center, prescribed approximately 11,940 Vicodin pills to patient T.C. over four years and did not use a pain-management plan or refer the patient to a pain specialist. After a pharmacy raised concerns, the hospital investigated and terminated Andrew for cause. The

hospital reported the matter to the Iowa Board of Medicine and the National Practitioner Data Bank; Andrew did not dispute the factual portions of either report but claimed that statements in the Iowa Board report were defamatory and that he was owed ninety days of compensation under his employment contract.

## PROCEDURAL HISTORY

Dr. Andrew sued the hospital for several claims, including defamation and wage-related claims. The federal court granted summary judgment to the hospital on the age-discrimination claim and remanded the remaining state-law claims. After Dr. Andrew amended his complaint to add an Iowa Wage Payment Collection Law claim, the Iowa district court denied the hospital's motion for partial summary judgment, concluding factual issues remained regarding malice, statutory immunity, and whether compensation under the termination provision constituted wages or severance pay. The Supreme Court of Iowa granted interlocutory review, reversed, and remanded for entry of summary judgment for the hospital on both claims.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand for entry of summary judgment in favor of the hospital on count III for defamation and count V for a wage law violation.

## CASES CITED

- Bierman v. Weier, 826 N.W.2d 436 (Iowa 2013)
- Jones v. Palmer Commc'ns, Inc., 440 N.W.2d 884 (Iowa 1989)
- Schlegel v. Ottumwa Courier, 585 N.W.2d 217 (Iowa 1998)
- Barreca v. Nickolas, 683 N.W.2d 111 (Iowa 2004)
- Taggart v. Drake Univ., 549 N.W.2d 796 (Iowa 1996)
- Bauer v. Brinkman, 958 N.W.2d 194 (Iowa 2021)
- Kiesau v. Bantz, 686 N.W.2d 164 (Iowa 2004)
- Alcala v. Marriott Int'l, Inc., 880 N.W.2d 699 (Iowa 2016)
- Meier v. Senecaut, 641 N.W.2d 532 (Iowa 2002)
- Yee v. City of Escondido, 503 U.S. 519 (1992)
- Lamasters v. State, 821 N.W.2d 856 (Iowa 2012)
- Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)
- Yates v. Iowa W. Racing Ass'n, 721 N.W.2d 762 (Iowa 2006)
- Ollman v. Evans, 750 F.2d 970 (D.C. Cir. 1984) (en banc)
- Janklow v. Newsweek, Inc., 788 F.2d 1300 (8th Cir. 1986) (en banc)
- Milkovich v. Lorain J. Co., 497 U.S. 1 (1990)
- Moldea v. N.Y. Times Co., 22 F.3d 310 (D.C. Cir. 1994)

- Nunes v. Lizza, 486 F. Supp. 3d 1267 (N.D. Iowa 2020)
- Phantom Touring, Inc. v. Affiliated Publ'ns, 953 F.2d 724 (1st Cir. 1992)
- Vranos v. Franklin Med. Ctr., 862 N.E.2d 11 (Mass. 2007)
- Bandstra v. Covenant Reformed Church, 913 N.W.2d 19 (Iowa 2018)
- Freilich v. Upper Chesapeake Health, Inc., 313 F.3d 205 (4th Cir. 2002)
- Bryan v. James E. Holmes Reg'l Med. Ctr., 33 F.3d 1318 (11th Cir. 1994)
- Brown v. Presbyterian Healthcare Servs., 101 F.3d 1324 (10th Cir. 1996)
- McClure v. International Livestock Improvement Services Corp., 369 N.W.2d 801 (Iowa 1985)

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