

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

Ricci v. Carp

Ricci · No. CAAP-24-0000770 · Decided May 22, 2026

SUMMARY

The Hawai‘i Intermediate Court of Appeals affirmed summary judgment for the medical-provider defendants in Gary J. Ricci’s medical malpractice action. The court held that the defendants satisfied their initial summary-judgment burden through expert declarations and reports, while Ricci offered no expert medical testimony establishing breach of the standard of care or a genuine issue for trial.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Karen T. Nakasone, Chief Judge; Katherine G. Leonard, Associate Judge; Kimberly T. Guidry, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	May 22, 2026
DOCKET	CAAP-24-0000770
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the Circuit Court of the Second Circuit's entry of summary judgment for the medical-provider defendants in a medical malpractice action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is appropriate when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Unpublished summary disposition order; not for publication in the Hawai‘i Reports and Pacific Reporter.
PARTIES	Gary J. Ricci v. Gerald Carp, M.D., Aloha Eye Clinic, Dr. Thomas Kropp, Dr. Claudia Hooten, Bennett Eye Institute, Does 1-10

TOPICS

- medical malpractice
- summary judgment
- standard of review
- appellate procedure
- professional negligence

PRACTICE AREAS

appellate procedure

medical malpractice

civil procedure

summary judgment

QUESTIONS PRESENTED

1. Whether the circuit court properly granted summary judgment to the medical-provider defendants.
2. Whether Ricci could establish negligent medical treatment without presenting his own expert medical testimony.
3. Whether Ricci's failure to comply precisely with Hawai'i Rules of Appellate Procedure Rule 28(b) required dismissal or foreclosed consideration of his appeal.

HOLDINGS

1. A pro se litigant's failure to state alleged errors in precise compliance with HRAP Rule 28(b) does not foreclose consideration of an appeal when the litigant's argument can reasonably be discerned.
2. The grant of summary judgment was proper because the medical-provider defendants met their initial burden with expert evidence, and Ricci failed to present specific facts establishing a genuine issue for trial.
3. As a general rule, a medical malpractice claim based on negligent treatment cannot be established without expert medical testimony addressing the applicable medical standard of care.

KEY QUOTATIONS

"On appeal, the grant or denial of summary judgment is reviewed de novo." (at 2)

"[S]ummary judgment is appropriate if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." (at 2-3)

"[U]nlike the ordinary negligence case, it is the general rule that a malpractice case based on negligent treatment cannot be established without expert medical testimony to support it." (at 4)

FACTUAL BACKGROUND

Ricci brought medical malpractice claims against several ophthalmologists and eye-care entities. The defendants submitted expert declarations and reports opining that their treatment satisfied the applicable ophthalmological standard of care and that no negligent act or omission caused Ricci's alleged injuries. Ricci had not retained or presented expert medical testimony by the discovery cutoff and proposed instead to use the defendants' experts and deposition testimony to support his claims.

PROCEDURAL HISTORY

Ricci filed a medical malpractice action against the medical-provider defendants. After the discovery deadline had passed, the defendants moved for summary judgment supported by ophthalmology expert declarations and reports. The circuit court granted the motions and entered final judgment on November 1, 2024. Ricci appealed, and the Intermediate Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Erum v. Llego, 147 Hawai‘i 368, 380, 465 P.3d 815, 827 (2020)
- Ralston v. Yim, 129 Hawai‘i 46, 55-57, 60, 292 P.3d 1276, 1285-87, 1290 (2013)
- Bernard v. Char, 79 Hawai‘i 371, 377, 903 P.2d 676, 682 (App. 1995)
- Craft v. Peebles, 78 Hawai‘i 287, 298, 893 P.2d 138, 149 (1995)

OPINION

Ricci v. Carp

PER CURIAM.

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Electronically Filed Intermediate Court of Appeals

CAAP-XX-XXXXXXX

22-MAY-2026

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NO. CAAP-XX-XXXXXXX

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI‘I

GARY J. RICCI, Plaintiff-Appellant, v.

GERALD CARP M.D.; ALOHA EYE CLINIC; DR. THOMAS KROPP; DR

CLAUDIA HOOTEN; BENNETT EYE INSTITUTE, Defendants-Appellees, and DOES 1-10,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT

(CASE NO. 2CCV-XX-XXXXXXX)

SUMMARY DISPOSITION ORDER

(By: Nakasone, Chief Judge, Leonard and Guidry, JJ.) Self-represented Plaintiff-Appellant Gary J. Ricci (Ricci) brought a medical malpractice action against Defendants- Appellees Gerald Carp, M.D. (Carp), Aloha Eye Clinic (AEC), Dr. Thomas Kropp (Kropp), Dr. Claudia Hooten (Hooten), and the Bennett Eye Institute (BEI) (collectively, Medical Providers). After the discovery deadline had passed, the Medical Providers

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moved for summary judgment. 1 The Circuit Court of the Second Circuit (circuit court) heard the Medical Providers' motions, and granted summary judgment in favor of the Medical Providers. The circuit court entered the Final Judgment on November 1, 2024. 2 Ricci appealed. Upon careful review of the record, briefs, and relevant legal authorities, and having given due

consideration to the arguments advanced and the issues raised by the parties, we affirm the Final Judgment. Ricci's opening brief fails to comply with Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b). Among other things, the opening brief does not set forth the points of error being raised on appeal, nor does it present clear contentions of error. Nevertheless, "a pro se litigant's failure to state the alleged errors of the lower court in precise compliance with HRAP Rule 28(b) . . . will not foreclose consideration of the appeal, so long as the litigant's argument can reasonably be discerned." *Erum v. Llego*, 147 Hawai'i 368, 380, 465 P.3d 815, 827 (2020) (citations omitted). Here, we discern that Ricci 1 The record reflects that Carp is affiliated with AEC, and Hooten is affiliated with BEI. Carp and AEC, Kropp, and Hooten and BEI filed their respective summary judgment motions on August 2, 2024. 2 The Honorable Kirstin M. Hamman presided. 2

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challenges the circuit court's summary judgment in favor of the Medical Providers. "On appeal, the grant or denial of summary judgment is reviewed de novo." *Ralston v. Yim*, 129 Hawai'i 46, 55, 292 P.3d 1276, 1285 (2013) (citation omitted). The court applies the following standard, [S]ummary judgment is appropriate if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. A fact is material if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties. The evidence must be viewed in the light most favorable to the non-moving party. In other words, we must view all of the evidence and inferences drawn therefrom in the light most favorable to the party opposing the motion. *Id.* at 55-56, 292 P.3d at 1285-86 (citation omitted). "[A] summary judgment movant may satisfy his or her initial burden of production by either (1) presenting evidence negating an element of the non-movant's claim, or (2) demonstrating that the nonmovant will be unable to carry his or her burden of proof at trial." *Id.* at 60, 292 P.3d at 1290 (citations omitted). The record reflects that the Medical Providers satisfied their initial burden of production through the declarations and reports of their medical experts in the area of ophthalmology. The experts opined that the Medical Providers' treatment of Ricci satisfied the standard of care for 3

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ophthalmologists. Hooten and BEI produced the declaration and report of Gregory W. Schmidt, M.D., who opined that Hooten "met the standard of care in all respects." Kropp produced the declaration of Anthony J. Aldave, M.D., who opined that "no negligent act or omission on the part of [Kropp] caused, or contributed to, [Ricci's] alleged injuries." Carp and AEC produced the declaration and report of Andrew F. Calman, M.D., Ph.D., who opined that "[his] review of the available records did not reveal any breach of the standard of care by any of [Ricci's] providers." The Medical Providers also demonstrated that Ricci would not be able to carry his burden of proof at trial. Ricci did not introduce any expert medical testimony to support his medical malpractice

claims. "[U]nlike the ordinary negligence case, it is the general rule that a malpractice case based on negligent treatment cannot be established without expert medical testimony to support it." *Bernard v. Char*, 79 Hawai'i 371, 377, 903 P.2d 676, 682 (App. 1995); see also *Craft v. Peebles*, 78 Hawai'i 287, 298, 893 P.2d 138, 149 (1995) ("It is well settled that in medical malpractice actions, the question of negligence must be decided by reference to relevant medical standards of care for which the plaintiff carries the burden of proving through expert medical testimony." (citation omitted)). 4

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The Medical Providers filed their motions for summary judgment after the discovery cutoff deadline had passed. 3 Ricci had not retained his own medical experts by that time. Ricci contends that, in lieu of retaining his own medical experts, he would "call the [Medical Providers'] medical experts as his own for the necessary medical opinions required by Hawaii State Law and to use those answers given in deposition to contradict the support for the [Medical Providers], and to further support the claims of [Ricci] and his injuries." (Emphasis omitted.) The Medical Providers' experts have already opined, however, that the Medical Providers satisfied the applicable standard of care in their treatment of Ricci; Ricci failed to "demonstrate specific facts, as opposed to general allegations, that present a genuine issue worthy of trial." See *Ralston*, 129 Hawai'i at 56-57, 292 P.3d at 1286-87 (citation omitted). 3 The circuit court set the discovery deadline at sixty days prior to trial; trial was scheduled for September 23, 2024. 5

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For the foregoing reasons, we affirm the Final Judgment. Ricci's Motion for Retention of Oral Argument, filed May 19, 2026, is denied pursuant to HRAP Rule 34(c). DATED: Honolulu, Hawai'i, May 22, 2026. On the briefs: /s/ Karen T. Nakasone Chief Judge Gary J. Ricci, Self-represented /s/ Katherine G. Leonard Plaintiff-Appellant. Associate Judge David Y. Suzuki, /s/ Kimberly T. Guidry for Defendants-Appellees Associate Judge Gerald Carp, M.D. and Aloha Eye Clinic. John-Anderson L. Meyer, for Defendant-Appellee Thomas Kropp, M.D. Arthur F. Roeca, for Defendants-Appellees Dr. Claudia Hooten and Bennett Eye Institute. 6

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