

SUPREME COURT OF ALASKA

Guilford v. Weidner Investment Services, Inc.

Opinion No. 7639 (Alaska Jan. 13, 2023) · No. S-17591/17611 · Decided January 13, 2023

SUMMARY

The Alaska Supreme Court reviews consolidated appeals arising from a landlord-tenant dispute involving eviction, habitability, mold-related injuries, misrepresentation, security deposits, and attorney’s fees. The court holds that medical records reflecting treating physicians’ opinions about mold causation created a genuine issue of material fact, requiring reversal of summary judgment on the personal-injury claim. It otherwise affirms the superior court’s evidentiary rulings, collateral-estoppel determination, and allowance of emotional-distress damages for violations of Alaska’s Uniform Residential Landlord-Tenant Act, while vacating the attorney’s-fee award.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Justice Borghesan; Chief Justice Winfree; Justice Maassen; Justice Carney; Justice Henderson
JURISDICTION	Alaska
DECIDED	January 13, 2023
DOCKET	S-17591/17611
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Tenant appealed summary judgment dismissing her personal-injury claim and the calculation of attorney's fees. The landlord cross-appealed evidentiary rulings, the submission of emotional-distress damages under Alaska's Uniform Residential Landlord Tenant Act, denial of a directed verdict on intentional misrepresentation, and the attorney's-fee award.
STANDARD OF REVIEW	Summary judgment, whether expert testimony is required to establish causation at summary judgment, collateral estoppel, statutory interpretation, directed verdicts, and the proper legal analysis for attorney's fees are reviewed de novo. Evidentiary rulings and attorney's-fee awards applying the correct legal analysis are reviewed for abuse of discretion; evidentiary error warrants reversal only when necessary to ensure substantial justice.

PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion
PARTIES	Tammie Guilford v. Weidner Investment Services, Inc.

TOPICS

landlord tenant eviction summary judgment evidence attorney fees

PRACTICE AREAS

landlord-tenant law civil procedure evidence torts remedies statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether the superior court improperly granted summary judgment against Guilford's mold-related personal-injury claim for lack of expert causation evidence.
2. Whether medical records reflecting treating physicians' possible opinions that mold exposure caused Guilford's health problems were sufficient to create a genuine issue of material fact.
3. Whether the district court's finding that Guilford attempted to tender rent was entitled to preclusive effect in the later proceeding.
4. Whether URLTA permits a tenant to recover non-economic damages for discomfort, annoyance, and mental distress caused by habitability violations.
5. Whether the superior court abused its discretion by admitting testimony from other tenants and government publications and excluding late-disclosed witnesses, photographs, and video.
6. Whether the superior court properly denied a directed verdict on Guilford's intentional-misrepresentation claim.
7. Whether a tenant's personal-injury claim arising from premises conditions is a common-law tort claim subject to Civil Rule 82 rather than URLTA's full-fee provision.
8. Whether attorney's fees under URLTA may be reduced solely because the tenant's monetary recovery was modest compared with the fees incurred.

HOLDINGS

1. The superior court erred by granting summary judgment against Guilford's personal-injury claim. Although the causal relationship between mold exposure and her alleged ailments was sufficiently complex to require medical opinion evidence, the medical records reflecting the possible opinions of treating physicians were sufficient, when viewed in Guilford's favor, to create a genuine issue of material fact.
2. The superior court properly gave preclusive effect to the district court's finding that Guilford had tendered her August 2015 rent.

3. URLTA permits recovery of non-economic damages, including discomfort, annoyance, and mental distress, for violations of the landlord's statutory duty to maintain fit and habitable premises.
4. The superior court did not abuse its discretion by allowing other tenants to testify, excluding Weidner's late-disclosed witnesses and photographs/video, or admitting the government mold publications; the challenge to the publications was also waived by inadequate briefing.
5. The superior court properly denied Weidner's motion for a directed verdict on Guilford's intentional-misrepresentation claim because the evidence and reasonable inferences permitted differing judgments by reasonable jurors.
6. A tenant's personal-injury claim arising from conditions on rented premises is a common-law tort claim rather than a claim arising under URLTA, even when pleaded as a URLTA claim; Civil Rule 82 therefore applies to fees incurred in pursuing or defending that claim.
7. The superior court erred by reducing Guilford's URLTA attorney's-fee award solely because her damages recovery was modest compared with the fees incurred.

KEY QUOTATIONS

“She did “not need to produce enough evidence to persuade the court that [she] would prevail at trial, only enough evidence to demonstrate a genuine issue of material fact.”” (7639 at 12)

“Because discomfort, annoyance, and mental stress are the common and foreseeable harms caused by habitability violations, it stands to reason that the legislature did not intend to preclude damages for these kinds of harms.” (7639 at 30)

“But discounting an attorney’s fee award solely because the tenant’s monetary recovery is modest undermines the apparent policy behind URLTA’s full-fee provision: to give lawyers financial incentive to represent parties with meritorious URLTA claims when financial incentives are otherwise lacking.” (7639 at 42)

FACTUAL BACKGROUND

Guilford rented an Anchorage apartment from Weidner and alleged that moisture intrusion, mold, rodents, and other conditions rendered the premises unfit. She claimed that mold exposure caused angioedema, asthma, respiratory failure, and other medical problems that improved when she stayed elsewhere and ceased after she permanently moved out. Weidner pursued eviction for unpaid rent, while Guilford alleged that Weidner rejected her tender of rent and imposed improper utility fees. A jury later found habitability violations and intentional misrepresentation, awarded \$7,325 in damages including \$5,835 for discomfort, annoyance, inconvenience, and mental distress, and rejected the retaliation and security-deposit claims.

PROCEDURAL HISTORY

Weidner filed several forcible entry and detainer actions against Guilford for nonpayment of rent; the August 2015 eviction action was denied after the district court found that Guilford had attempted to tender rent. Guilford asserted counterclaims under URLTA concerning habitability, retaliation, security deposits, utility-fee misrepresentation, and mold-related injuries. The superior court granted summary judgment against the personal-injury claim, a jury awarded Guilford damages for intentional misrepresentation and emotional distress

caused by habitability violations, and the superior court awarded her partial attorney's fees using a blended analysis under Alaska Civil Rule 82 and URLTA. The Supreme Court reversed summary judgment, affirmed the evidentiary rulings and the allowance of non-economic URLTA damages, held that Civil Rule 82 applies to the personal-injury claim, held that reducing fees solely because of the modest recovery was error, vacated the fee award, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the superior court's grant of partial summary judgment on Guilford's personal-injury claim, vacate the attorney's-fee award, and conduct further proceedings consistent with the opinion, including reconsideration of fee allocation and the fee award after remand.

CASES CITED

- Miller v. Fowler, 424 P.3d 306 (Alaska 2018)
- Kelly v. Municipality of Anchorage, 270 P.3d 801 (Alaska 2012)
- Culliton v. Hope Cmty. Res., Inc., 491 P.3d 1088 (Alaska 2021)
- Punches v. McCarrey Glen Apartments, LLC, 480 P.3d 612 (Alaska 2021)
- James v. Alaska Frontier Constructors, Inc., 468 P.3d 711 (Alaska 2020)
- Choi v. Anvil, 32 P.3d 1 (Alaska 2001)
- Matanuska Elec. Ass'n v. Chugach Elec. Ass'n, Inc., 152 P.3d 460 (Alaska 2007)
- Allstate Ins. Co. v. Kenick, 435 P.3d 938 (Alaska 2019)
- Chilton-Wren v. Olds, 1 P.3d 693 (Alaska 2000)
- Newton v. Magill, 872 P.2d 1213 (Alaska 1994)
- Helfrich v. Valdez Motel Corp., 207 P.3d 552 (Alaska 2009)
- Hancock v. Northcutt, 808 P.2d 251 (Alaska 1991)
- Brewer v. Erwin, 600 P.2d 398 (Or. 1979)
- Thomas v. Goudreault, 786 P.2d 1010 (Ariz. App. 1989)
- Dawson v. Temanson, 107 P.3d 892 (Alaska 2005)
- Luther v. Lander, 373 P.3d 495 (Alaska 2016)
- Lindbo v. Colaska, Inc., 414 P.3d 646 (Alaska 2018)
- Adkins v. Collens, 444 P.3d 187 (Alaska 2019)
- Windel v. Carnahan, 379 P.3d 971 (Alaska 2016)
- Hagen v. Strobel, 353 P.3d 799 (Alaska 2015)
- Anchorage Chrysler Ctr., Inc. v. DaimlerChrysler Motors Corp., 221 P.3d 977 (Alaska 2009)
- Todeschi v. Sumimoto Metal Mining Pogo, LLC, 394 P.3d 562 (Alaska 2017)

- Association of Village Council Presidents v. Mael, 507 P.3d 963 (Alaska 2022)

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