

VERMONT SUPERIOR COURT, CIVIL DIVISION, RUTLAND UNIT

Megan Barli, et al. v. Jeffrey Wulfman, M.D., et al.

Megan Barli et al. v. Jeffrey Wulfman, M.D. et al. · No. 23-CV-00855 · Decided March 19, 2026

SUMMARY

The Vermont Superior Court denied motions to dismiss and for judgment on the pleadings in a medical malpractice action concerning alleged kidney damage from Lyme disease treatment, holding that the minor-plaintiff tolling provision in 12 V.S.A. § 551 applied to the medical malpractice repose period in 12 V.S.A. § 521. The court granted in part and denied in part the plaintiffs’ motion for a protective order regarding expert depositions and scheduling deadlines. The court denied the plaintiffs’ motion for a trial scheduling order and reserved related trial matters for a future status conference.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Rutland Unit
WRITING FOR THE COURT	Susan A. McManus
JURISDICTION	Vermont Superior Court, Civil Division, Rutland Unit
DECIDED	March 19, 2026
DOCKET	23-CV-00855
DISPOSITION	other
PROCEDURAL POSTURE	In a medical malpractice action, the court decided the defendant physician's motion to dismiss, the hospital's motion for judgment on the pleadings, the plaintiffs' motion for a protective order and sanctions concerning discovery, and the plaintiffs' motion for a trial scheduling order.
STANDARD OF REVIEW	For the motions to dismiss and for judgment on the pleadings, the court applied the pleaded facts and the governing statutory provisions. For the protective-order and sanctions request, the court applied V.R.C.P. 26, 16.2, and 37 and evaluated whether the parties complied with discovery and scheduling orders.
PRECEDENTIAL VALUE	Unknown; Vermont Superior Court decision
PARTIES	Megan Barli, Scott Barli, Lisa Barli v. Jeffrey Wulfman, M.D., Porter Hospital, Inc.

TOPICS

medical malpractice

motions to dismiss

motion for judgment on the pleadings

discovery dispute

statutory interpretation

PRACTICE AREAS

medical malpractice

civil procedure

discovery

statutory interpretation

QUESTIONS PRESENTED

1. Whether Vermont's medical-malpractice statute of repose barred plaintiffs' claims despite Megan Barli's minority when the action was filed.
2. Whether Porter Hospital was entitled to judgment on the pleadings based on the medical-malpractice statute of repose.
3. Whether plaintiffs were entitled to a protective order or sanctions to enforce the scheduling and discovery orders.
4. Whether the court should set a trial date and establish procedures governing depositions of treating professionals and the presentation of videos, photographs, and medical and billing records.

HOLDINGS

1. Under 12 V.S.A. §§ 521 and 551, the limitations and repose periods applicable to a medical-malpractice claim brought by a minor begin after the minor's disability is removed, so Megan Barli's claim was not barred when plaintiffs filed suit in 2023.
2. Porter Hospital's motion for judgment on the pleadings was denied because the statute-of-repose analysis did not bar the plaintiffs' claims.
3. The protective-order motion was granted in part and denied in part: the court recognized defendants' failure to comply adequately with the discovery schedule but declined to impose sanctions or find bad faith based solely on the evidence presented.
4. The motion for a trial date and related orders was denied without prejudice to revisiting the individual issues after a status conference and revised discovery schedule.

KEY QUOTATIONS

“This plainly states that the times imposed by section 521, in the case of a minor, begin upon their eighteenth birthday.” (at 2)

“A scheduling order, unless modified, controls the subsequent course of the action and takes precedence over any rule with respect to the time for taking any action or the scheduling of actions for trial.” (at 4)

FACTUAL BACKGROUND

Megan Barli was born on March 19, 2003, and Jeffrey Wulfman, M.D., treated her for Lyme disease from September 22, 2008, through August 31, 2012. Plaintiffs allege that Wulfman failed to order kidney-function tests and failed to identify or monitor progressive kidney damage caused by the treatment. The action was filed

in March 2023. During the litigation, defendants did not complete depositions of plaintiffs' experts by the court-ordered deadline, and a scheduled December 2025 deposition sequence was postponed after Wulfman's counsel became unavailable.

PROCEDURAL HISTORY

Plaintiffs filed the medical malpractice action in March 2023 concerning treatment Megan Barli received from September 2008 through August 2012. The parties litigated multiple scheduling orders, discovery extensions, and mediation-related issues. The court denied both dispositive motions, granted the protective-order motion in part and denied it in part, and denied the requested trial scheduling order while reserving the ability to revisit particular trial-related issues.

DISPOSITION

other

CASES CITED

- CTS Corp. v. Waldburger, 573 U.S. 1, 9 (2014)
- Carpin v. Vermont Yankee Nuclear Power Corp., 2024 VT 27, 219 Vt. 238
- Vt. Hum. Rts. Comm'n, 2012 VT 88, 192 Vt. 552
- Passera v. Global Values, Inc., No. 606-11-19 WNCV, 2020 WL 13260817, at *1 (Vt. Super. June 2, 2020)

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