

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

David Scott Wells, and North Florida OBGYN, LLC d/b/a Women’s
Care Florida v. Rodrigo Quintero, Individually and as Personal
Representative of the Estate of Iris Quintero, Rodrigo Quintero and
D.E.Q., a Child, by and through his Parent and Natural Guardian
Rodrigo Quintero, and St. Vincent’s Medical Center, Inc. d/b/a
Ascension St. Vincent’s Riverside Hospital

Wells v. Quintero · No. 5D2024-3379 · Decided January 23, 2026

SUMMARY

The Fifth District Court of Appeal of Florida reverses a nonfinal order denying David Scott Wells and North Florida OBGYN’s motion to dismiss counts in a wrongful-death medical malpractice action. The court holds that the plaintiff failed to satisfy the Medical Malpractice Act’s presuit notice and corroborating-affidavit requirements for claims involving North Florida OBGYN’s direct negligence and lack of informed consent. The case is remanded with instructions to dismiss counts II, III, and IV.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Soud, J.; Wallis, J.; Kilbane, J.
JURISDICTION	Fifth District Court of Appeal of Florida
DECIDED	January 23, 2026
DOCKET	5D2024-3379
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Nonfinal appeal and certiorari proceeding from an order denying Dr. Wells’s and North Florida OBGYN’s motion to dismiss counts II, III, and IV of a third amended wrongful-death medical-malpractice complaint.
STANDARD OF REVIEW	Certiorari review; the petitioner must show a departure from the essential requirements of law, material injury for the remainder of the case, and resulting harm that cannot be corrected by post-judgment appeal. The court first considers irreparable harm because it is jurisdictional.

PRECEDENTIAL VALUE	Published Florida district court of appeal opinion; precedential subject to the stated nonfinality provision.
PARTIES	David Scott Wells, M.D., North Florida OBGYN, LLC d/b/a Women's Care Florida v. Rodrigo Quintero, individually and as personal representative of the Estate of Iris Quintero, Rodrigo Quintero and D.E.Q., a child, by and through Rodrigo Quintero, St. Vincent's Medical Center, Inc. d/b/a Ascension St. Vincent's Riverside Hospital

TOPICS

medical malpractice

wrongful death

writ of certiorari

motions to dismiss

appellate procedure

PRACTICE AREAS

medical malpractice

health law

civil procedure

appellate procedure

wrongful death

QUESTIONS PRESENTED

1. Whether Florida Rule of Appellate Procedure 9.130(a)(3)(H) authorized interlocutory review of the order denying the motion to dismiss.
2. Whether certiorari jurisdiction was available to review compliance with the presuit requirements of Florida's Medical Malpractice Act.
3. Whether the presuit expert affidavit sufficiently corroborated the negligence claim against North Florida OBGYN.
4. Whether the presuit expert affidavit sufficiently corroborated the lack-of-informed-consent claims against Dr. Wells and North Florida OBGYN.

HOLDINGS

1. Rule 9.130(a)(3)(H) did not authorize interlocutory review because the motion to dismiss was based on the complete absence of corroborating opinions for the challenged claims, not on the qualifications of the corroborating expert.
2. Certiorari jurisdiction was available to determine whether Quintero complied with the procedural presuit requirements of the Medical Malpractice Act.
3. A presuit expert affidavit that addresses only the alleged negligence of an individual physician does not satisfy the Medical Malpractice Act's corroboration requirements for a separate claim alleging direct negligence by the physician's employer or its employees and agents.
4. The lack-of-informed-consent claims against Dr. Wells and North Florida OBGYN were subject to dismissal because the presuit corroborating affidavit did not address informed consent or identify how either defendant deviated from the applicable standard of care in that regard.

KEY QUOTATIONS

“Thus, as the Florida Supreme Court reiterated in Carmody, certiorari lies “to ensure that the procedural aspects of the presuit requirements are met.”” (at 5)

“The purpose of the medical expert opinion is to ‘assure the defendants, and the court, that a medical expert has determined that there is justification for the plaintiff’s claim . . . to corroborate that the claim is legitimate.’” (at 7)

FACTUAL BACKGROUND

Iris Quintero died allegedly as a result of medical negligence in the treatment of her uterine tumor by Dr. David Wells, an obstetrician and gynecologist. Before suit, Rodrigo Quintero served a notice of intent to initiate medical-malpractice litigation accompanied by an expert affidavit addressing alleged clinical negligence by Dr. Wells, including delayed diagnosis and negligent morcellation. The affidavit did not express opinions concerning negligence by North Florida OBGYN, its employees or agents, or lack of informed consent.

PROCEDURAL HISTORY

Quintero filed a wrongful-death medical-malpractice action against Dr. Wells, North Florida OBGYN, and St. Vincent’s Medical Center. After amendments, the third amended complaint asserted negligence against Dr. Wells, negligence and lack of informed consent against North Florida OBGYN, lack of informed consent against Dr. Wells, and vicarious liability against North Florida OBGYN. The trial court denied the motion to dismiss counts II, III, and IV, and the Fifth District accepted certiorari jurisdiction to review compliance with the presuit requirements of Florida’s Medical Malpractice Act.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the order denying the motion to dismiss counts II, III, and IV, remand with instructions to grant the motion to dismiss those counts, and conduct further proceedings consistent with the opinion.

CASES CITED

- Adventist Health Sys./Sunbelt, Inc. v. Machalek, 383 So. 3d 534 (Fla. 5th DCA 2023)
- Univ. of Fla. Bd. of Trs. v. Carmody, 372 So. 3d 246 (Fla. 2023)
- Abbey v. Patrick, 16 So. 3d 1051 (Fla. 1st DCA 2009)
- Shands Jacksonville Med. Ctr., Inc. v. Pusha, 254 So. 3d 1076 (Fla. 1st DCA 2018)
- St. Joseph’s Hosp., Inc. v. Doe, 208 So. 3d 1200 (Fla. 2d DCA 2017)
- Williams v. Campagnulo, 588 So. 2d 982 (Fla. 1991)
- Largie v. Gregorian, 913 So. 2d 635 (Fla. 3d DCA 2005)
- Tomas v. Sandler, 406 So. 3d 1089 (Fla. 3d DCA 2025)
- Rell v. McCulla, 101 So. 3d 878 (Fla. 2d DCA 2012)

- *Wolfsen v. Applegate*, 619 So. 2d 1050 (Fla. 1st DCA 1993)
- *Rafferty v. Martin Mem'l Med. Ctr., Inc.*, 335 So. 3d 144 (Fla. 4th DCA 2022)

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