

SUPREME COURT OF NEVADA

Costello v. Casler, 127 Nev. 436

254 P.3d 631 (2011) · No. No. 55458 · Decided July 7, 2011

SUMMARY

The Supreme Court of Nevada held that an amended complaint naming a decedent's estate may relate back under NRCP 15(c) when the original complaint timely named the decedent, the decedent's insurer had actual notice and knowledge of the action within the limitations period, and the estate would not suffer prejudice. The court held that the insurer's notice and knowledge could be imputed to the estate, reversed summary judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Saitta, J.; Hardesty, J.; Parraguirre, J.
JURISDICTION	Nevada
DECIDED	July 7, 2011
DOCKET	No. 55458
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order granting summary judgment to the defendant and denying the plaintiff leave to amend her complaint to add the decedent's estate as a defendant after expiration of the statute of limitations.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, without deference to the district court. Summary judgment is proper when the pleadings and evidence show no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; the evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Debbie Costello v. Philip Casler, individually

TOPICS

statute of limitations

motion to amend

civil procedure

summary judgment

appellate procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Torts

Probate

QUESTIONS PRESENTED

1. Whether an amendment adding a decedent's estate as a defendant may relate back under NRCP 15(c) when the original complaint timely named the decedent individually.
2. Whether notice and knowledge of the action possessed by the decedent's insurer may be imputed to the decedent's estate for purposes of satisfying NRCP 15(c).
3. Whether the district court properly granted summary judgment on statute-of-limitations grounds and denied leave to amend.

HOLDINGS

1. When a plaintiff timely files a complaint naming a deceased defendant instead of the decedent's estate, an amended complaint naming the estate may relate back to the date of the original pleading under NRCP 15(c) if the estate received actual notice of the action within the limitations period, knew it was the proper party, and would not be prejudiced.
2. A decedent's insurer's notice and knowledge of the institution of an action may be imputed to the decedent's estate for purposes of satisfying the relation-back requirements of NRCP 15(c), when the insurer had actual notice within the limitations period and the estate suffers no prejudice.
3. Summary judgment was improper because the amendment adding Casler's estate was not barred by the statute of limitations and should have been permitted to relate back under NRCP 15(c).

KEY QUOTATIONS

"An amended pleading adding a defendant that is filed after the statute of limitations has run will relate back to the date of the original pleading under NRCP 15(c) if "the proper defendant (1) receives actual notice of the action; (2) knows that it is the proper party; and (3) has not been misled to its prejudice by the amendment."" (254 P.3d at 634)

"We therefore conclude that when, as here, a plaintiff timely files a complaint that names a deceased defendant instead of the decedent's estate, the decedent's insurer had notice and knowledge of the action within the statute of limitations, and there is no resulting prejudice to the decedent's estate, an amended complaint naming the estate will relate back to the date of the original pleading under NRCP 15(c)." (254 P.3d at 636)

FACTUAL BACKGROUND

Costello and Casler were involved in an automobile accident, and Casler later died from unrelated causes. Costello filed a personal-injury lawsuit against Casler without knowing of his death, and an attempted service of process revealed that Casler was deceased. Before the statute of limitations expired, Casler's insurer, American Family Insurance, had notice and knowledge of the lawsuit and retained counsel to represent Casler's interests. Costello subsequently sought to amend the complaint to add Casler's estate, asserting that the amendment should relate back under NRCP 15(c).

PROCEDURAL HISTORY

Costello filed a personal-injury action naming Philip Casler, unaware that he had died. After learning of Casler's death, she sought substitution and amendment to name Casler's estate. The district court denied substitution and amendment, granted Casler's countermotion for summary judgment, and denied reconsideration. Costello appealed the summary judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for proceedings consistent with the opinion, including permitting amendment of the complaint to add Casler's estate and proceeding without treating the claim as barred by the statute of limitations.

CASES CITED

- Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005)
- Clark v. Robison, 113 Nev. 949, 944 P.2d 788 (1997)
- Echols v. Summa Corp., 95 Nev. 720, 601 P.2d 716 (1979)
- E.W. French & Sons, Inc. v. General Portland Inc., 885 F.2d 1392 (9th Cir. 1989)
- University & Cmty. Coll. Sys. v. Sutton, 120 Nev. 972, 103 P.3d 8 (2004)
- Schmidt v. Sadri, 95 Nev. 702, 601 P.2d 713 (1979)
- Pargman v. Vickers, 208 Ariz. 573, 96 P.3d 571 (Ariz. Ct. App. 2004)
- Brink v. First Credit Resources, 57 F. Supp. 2d 848 (D. Ariz. 1999)
- Smith v. TW Services, Inc., 142 F.R.D. 144 (M.D. Tenn. 1991)
- Lagana v. Toyofuki Kaiun, K.K., 124 F.R.D. 555 (S.D.N.Y. 1989)
- Phillips v. Gieringer, 108 P.3d 889 (Alaska 2005)
- Indiana Farmers Mut. Ins. Co. v. Richie, 707 N.E.2d 992 (Ind. 1999)
- Red Arrow Stables, Ltd. v. Velasquez, 725 N.E.2d 110 (Ind. Ct. App. 2000)
- LaRue v. Harris, 128 Wash. App. 460, 115 P.3d 1077 (2005)
- Korn v. Royal Caribbean Cruise Line, Inc., 724 F.2d 1397 (9th Cir. 1984)
- Hamilton v. Blackman, 915 P.2d 1210 (Alaska 1996)
- Macias v. Jaramillo, 129 N.M. 578, 11 P.3d 153 (2000)
- Schwartz v. Douglas, 98 Wash. App. 836, 991 P.2d 665 (2000)
- Craig v. Ludy, 95 Wash. App. 715, 976 P.2d 1248 (1999)
- Edwards v. Emperor's Garden Rest., 122 Nev. 317, 130 P.3d 1280 (2006)
- Medical Device Alliance, Inc. v. Ahr, 116 Nev. 851, 8 P.3d 135 (2000)
- Nurenberger Hercules-Werke v. Virostek, 107 Nev. 873, 822 P.2d 1100 (1991)
- Travelers Indemnity Co. v. United States, 382 F.2d 103 (10th Cir. 1967)

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