

SUPREME COURT OF NEVADA

Yafchak v. South Las Vegas Medical Investors, LLC

Yafchak v. S. Las Vegas Med. Inv'rs, 2022 NV 70 (2022) · No. 82746 · Decided October 27, 2022

SUMMARY

The Nevada Supreme Court reversed the dismissal of a negligence, elder abuse, and wrongful death action against a skilled nursing facility. The court held that professional negligence claims under NRS Chapter 41A and elder abuse claims under NRS 41.1395 are separate and distinct, and that the record did not establish at the pleading stage that the claims sounded in professional negligence requiring an affidavit of merit. The court remanded for further factual development.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Michael L. Parraguirre, Chief Justice; James W. Hardesty, Justice; Linda M. Bell, Justice; Abbi Silver, Justice; Lidia S. Stiglich, Justice; Elissa F. Cadish, Justice; Patricia Lee Pickering, Justice; Ron D. Herndon, Justice
JURISDICTION	Nevada
DECIDED	October 27, 2022
DOCKET	82746
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Eighth Judicial District Court granting the defendant skilled-nursing-facility's motion to dismiss a negligence action for failure to attach an affidavit of merit and on an alternative statute-of-limitations ground.
STANDARD OF REVIEW	De novo review of dismissal for failure to comply with NRS 41A.071; dismissal is proper only when it appears beyond a doubt that the plaintiff could prove no set of facts entitling her to relief.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Lynn Yafchak, statutory heir and special administrator to the Estate of Joan Yafchak, deceased v. South Las Vegas Medical Investors, LLC, doing business as Life Care Center of South Las Vegas

TOPICS

professional negligence

nursing home liability

motions to dismiss

pleadings

appellate procedure

PRACTICE AREAS

professional negligence

elder abuse

nursing home liability

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the allegations in the complaint necessarily sounded in professional negligence under NRS Chapter 41A and therefore required an affidavit of merit under NRS 41A.071.
2. Whether the district court properly dismissed the complaint before discovery when the face of the complaint did not establish whether the alleged conduct constituted professional negligence or elder abuse.
3. Whether dismissal on the alternative statute-of-limitations ground under NRS 41A.097(2) was proper when it was unclear whether NRS Chapter 41A applied.

HOLDINGS

1. Claims under Nevada's professional-negligence statutes, NRS Chapter 41A, and Nevada's elder-abuse statute, NRS 41.1395, are separate and distinct causes of action.
2. The complaint could not be classified as professional negligence at the pleading stage because the allegations did not establish that the alleged tortious conduct was a medical decision undertaken by a provider of health care.
3. When a defendant moves to dismiss for failure to comply with NRS 41A.071, the defendant bears the burden of demonstrating that the plaintiff's allegations arise under NRS Chapter 41A.

KEY QUOTATIONS

“Claims under these statutes are separate and distinct, and it is important that the claims are properly classified because only claims for professional negligence require plaintiff's to include an affidavit of merit as part of their complaint.” (at 2)

“Namely, when a defendant moves to dismiss a plaintiff's complaint for failing to comply with NRS 41A.071, the burden is on the defendant to demonstrate that plaintiff's allegations arise under NRS Chapter 41A.” (at 5)

“Based on the allegations in Yafchak's complaint, and drawing all inferences in her favor, it cannot be determined at this juncture that the gravamen of her allegations sound in professional negligence as opposed to elder abuse.” (at 6)

FACTUAL BACKGROUND

Joan Yafchak was a resident of Life Care Center of South Las Vegas and allegedly suffered injuries, including after a fall, that resulted in her death. Her estate representative alleged that the facility failed to properly assess Joan after the fall and failed to monitor and care for her. The complaint also alleged negligent hiring, training,

and supervision but did not identify the employees responsible or establish whether the alleged conduct was undertaken by a statutory provider of health care.

PROCEDURAL HISTORY

Lynn Yafchak sued South Las Vegas Medical Investors, LLC, alleging elder abuse, negligence, and wrongful death arising from injuries her mother suffered while residing at the facility. She did not attach an affidavit of merit and did not identify which employees allegedly provided improper care. The district court concluded that the claims sounded in professional negligence under NRS Chapter 41A and dismissed the complaint. The Nevada Supreme Court reversed and remanded, holding that the complaint alone did not establish that the claims sounded in professional negligence rather than elder abuse.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including factual development sufficient to determine whether the gravamen of the claims sounds in professional negligence under NRS Chapter 41A or elder abuse under NRS 41.1395.

CASES CITED

- Estate of Curtis v. South Las Vegas Medical Investors, LLC, 136 Nev. 350, 466 P.3d 1263 (2020)
- Washoe Medical Center v. Second Judicial District Court, 122 Nev. 1298, 148 P.3d 790 (2006)
- Zohar v. Zbiegien, 130 Nev. 733, 334 P.3d 402 (2014)
- Buzz Stew, LLC v. City of North Las Vegas, 124 Nev. 224, 181 P.3d 670 (2008)
- Western States Construction, Inc. v. Michoff, 108 Nev. 931, 840 P.2d 1220 (1992)