

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, DANVILLE DIVISION

Connor S. Ross, Megan M. Ross, and Lauren A. Ross v. Norris
Funeral Services, Inc.

Ross v. Norris Funeral Services · No. 4:25-cv-00022 · Decided December 19, 2025

SUMMARY

The United States District Court for the Western District of Virginia denied Norris Funeral Services, Inc.’s motion to dismiss a complaint arising from the cremation of the plaintiffs’ father without authorization from his next of kin. The court held that Virginia law recognizes a near-relative’s quasi-property right to control the care and disposition of a deceased person’s remains and that interference with that right may support a negligence claim. The court concluded that the plaintiffs sufficiently pleaded duty, breach, causation, and emotional damages.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Danville Division
WRITING FOR THE COURT	Thomas T. Cullen
JURISDICTION	United States District Court for the Western District of Virginia, Danville Division
DECIDED	December 19, 2025
DOCKET	4:25-cv-00022
DISPOSITION	denied
PROCEDURAL POSTURE	Defendant removed the action from Virginia state court based on diversity jurisdiction and moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The district court denied the motion to dismiss.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court evaluates the legal sufficiency of the complaint, accepts well-pleaded factual allegations as true, considers attached exhibits, and asks whether the complaint contains sufficient factual matter to state a facially plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential district court memorandum opinion

TOPICS

motions to dismiss

negligence

duty of care

proximate cause

damages

PRACTICE AREAS

Torts

Civil Procedure

Funeral and cemetery law

Remedies

QUESTIONS PRESENTED

1. Whether Virginia law recognizes a cause of action arising from the unlawful invasion of a near-relative's quasi-property right to control the care and disposition of a deceased person's remains.
2. Whether the complaint adequately pleaded negligence, including duty, breach, proximate causation, and damages, under Virginia law.
3. Whether the Rosses' failure to move to remand required the district court to remand the action sua sponte based on the forum-defendant rule.

HOLDINGS

1. Virginia law recognizes an actionable claim when a wrongdoer unlawfully invades a near-relative's right to possess, preserve, bury, or make decisions concerning a deceased person's remains.
2. The complaint adequately pleaded negligence because it alleged that the Rosses possessed the relevant quasi-property right, Norris owed them a duty as custodian of the remains, Norris breached that duty by accepting Amaya's instructions without verifying her authority, the breach proximately caused mental suffering, and the Rosses sustained damages.
3. The court would not remand the case sua sponte based on Norris's violation of the forum-defendant rule because that defect is procedural and waivable, and the Rosses did not move to remand within 30 days.

KEY QUOTATIONS

“It is well settled . . . that any interference with that right . . . is actionable.” (III)

“Finally, under Sanford, plaintiffs whose rights to their loved one’s remains were invaded may recover for mental suffering alone, without the need to allege or prove pecuniary loss.” (III)

“For the reasons discussed above, the Rosses’ complaint sufficiently alleges negligence arising from Norris’s interference with their right, under Virginia law, to make decisions regarding to care and disposition of their father’s remains.” (IV)

FACTUAL BACKGROUND

Kenneth Ross died on March 15, 2023, survived by his three adult children, Connor, Megan, and Lauren Ross. His friend and caretaker, Sue Ann Amaya, arranged with Norris Funeral Services to cremate his remains, although she was not the executor or administrator of his estate and was not his spouse or next of kin. The Rosses alleged that Norris failed to verify Amaya's legal authority before cremating the body, thereby preventing them from exercising their rights concerning the care and disposition of their father's remains and causing them mental suffering and anguish.

PROCEDURAL HISTORY

The Rosses filed a complaint in the Circuit Court for the City of Danville on March 18, 2025, alleging that Norris Funeral Services unlawfully invaded their quasi-property rights in their deceased father's remains. Norris removed the case to federal court on April 25, 2025, and filed a motion to dismiss on June 18, 2025. The court noted that removal by a forum-state defendant was a waivable procedural defect, found that the Rosses waived it by not moving to remand within 30 days, and reached the merits of the motion to dismiss.

DISPOSITION

denied

CASES CITED

- *Forrest v. Green Tree Servicing, LLC*, No. CIV.A. ELH-13-1525, 2013 WL 3270447, at *5 n.4 (D. Md. June 25, 2013)
- *Councill v. Homer Laughlin China Co.*, 823 F. Supp. 2d 370, 378 (N.D.W. Va. 2011)
- *Ellenburg v. Spartan Motors Chassis, Inc.*, 519 F.3d 192, 198-99 (4th Cir. 2008)
- *Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir. 1999)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 557, 570 (2007)
- *Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 166 (4th Cir. 2016)
- *Sanford v. Ware*, 60 S.E.2d 10, 11-14 (Va. 1950)
- *Goldman v. Mollen*, 191 S.E. 627, 631 (Va. 1937)
- *Awtrey v. Norfolk & W. Ry. Co.*, 93 S.E. 570, 571 (Va. 1917)
- *Siver v. Rockingham Mem'l Hosp.*, 48 F. Supp. 2d 608, 609, 612 (W.D. Va. 1999)
- *Cole v. JNO. M. Oakey, Inc.*, No. CL18-1817, 2019 WL 3955802, at *5 (Va. Cir. Mar. 9, 2019)
- *Mazur v. Woodson*, 191 F. Supp. 2d 676, 678, 681-82 (E.D. Va. 2002)
- *Al-Saray v. Furr*, 910 S.E.2d 320, 324 (Va. 2025)
- *Blue Ridge Serv. Corp. v. Saxon Shoes, Inc.*, 624 S.E.2d 55, 62 (Va. 2006)
- *Russo v. United States*, 37 F. Supp. 2d 450, 452 (E.D. Va. 1999)
- *Wyatt v. Chesapeake & Potomac Tel. Co.*, 163 S.E. 370, 372 (Va. 1932)
- *Benedict v. Hankook Tire Co. Ltd.*, 286 F. Supp. 3d 785, 790 (E.D. Va. 2018)
- *Interim Pers. Cent. Va. v. Messer*, 559 S.E.2d 704, 408 (Va. 2002)

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