

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Blanchard v. Steward Carney Hospital, Inc.

483 Mass. 200 (2019) · No. SJC-12618 · Decided September 23, 2019

SUMMARY

The Massachusetts Supreme Judicial Court affirmed the denial of the defendants' special motion to dismiss a defamation claim under Massachusetts's anti-SLAPP statute. The court applied the augmented Duracraft framework and held that the nurses' claim was colorable and was not primarily brought to chill the defendants' legitimate petitioning activity. The court also upheld the denial of the defendants' request for discovery and recognized the continued application of present execution review to denials of anti-SLAPP motions.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Lenk, J.; Gants, C.J.; Gaziano, J.; Lowy, J.; Budd, J.; Cypher, J.; Kafker, J.
JURISDICTION	Massachusetts
DECIDED	September 23, 2019
DOCKET	SJC-12618
DISPOSITION	remanded
PROCEDURAL POSTURE	The hospital defendants appealed from the denial of a special motion to dismiss a defamation claim under Massachusetts's anti-SLAPP statute and from the denial of their request to depose the nine plaintiff nurses. The Supreme Judicial Court transferred the case from the Appeals Court on its own initiative.
STANDARD OF REVIEW	The ruling on the anti-SLAPP motion was reviewed for abuse of discretion or error of law. The denial of discovery was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Steward Carney Hospital, Inc., Steward Hospital Holdings, LLC, Steward Health Care System, LLC, William Walczak v. Lynne Blanchard, Gail Donahoe, Gail Douglas-Candido, Kathleen Dwyer,

TOPICS

motions to dismiss discovery dispute appellate procedure free speech defamation

PRACTICE AREAS

Civil procedure Constitutional law Torts Appellate procedure

QUESTIONS PRESENTED

1. Whether the Superior Court correctly applied the augmented Duracraft anti-SLAPP framework and denied the hospital defendants' special motion to dismiss the nurses' defamation claim.
2. Whether the nurses established with fair assurance that their defamation claim was colorable and was not primarily brought to chill the hospital defendants' legitimate exercise of the right to petition.
3. Whether the motion judge abused his discretion by denying the hospital defendants' request to depose the nine plaintiff nurses in connection with the anti-SLAPP motion.
4. Whether the doctrine of present execution permits an interlocutory appeal from denial of an anti-SLAPP motion under the augmented framework.

HOLDINGS

1. When a Massachusetts anti-SLAPP motion is filed, the Duracraft burden-shifting framework as augmented in Blanchard I applies. At the second stage, a nonmoving party may defeat the motion through an alternative path by showing, with fair assurance, that its claim is colorable and was not primarily brought to chill the moving party's legitimate petitioning activity.
2. The nurses' defamation claim was colorable and was not primarily brought to chill the hospital defendants' legitimate petitioning activity; therefore, the claim was not a SLAPP suit and the special motion to dismiss was properly denied.
3. Discovery in connection with an anti-SLAPP motion is generally inconsistent with the statute's expedited procedure, and judges should be parsimonious in permitting it. The motion judge did not abuse his discretion by denying depositions intended to explore the nurses' subjective motives.
4. The doctrine of present execution applies to interlocutory appeals from the denial of anti-SLAPP motions, including denials under the augmented portion of the Duracraft framework.

KEY QUOTATIONS

“For purposes of this second path, an anti-SLAPP motion to dismiss will be denied if the motion judge concludes, with fair assurance, that the challenged claim is both colorable and not brought primarily to chill the moving party's legitimate exercise of its right to petition.” (slip op. at 10-11)

“Because discovery at this stage generally is inconsistent with the expedited procedural protections

established by the anti-SLAPP statute, judges should be parsimonious in permitting it.” (slip op. at 22-23)

“The doctrine of present execution, however, applies to anti-SLAPP cases in order to preserve a moving party's "immunity" from being required to litigate a SLAPP suit.” (slip op. at 25)

FACTUAL BACKGROUND

In spring 2011, all registered nurses and mental-health counselors working in Steward Carney Hospital's adolescent psychiatric unit were fired after reports of abuse. Hospital president William Walczak made statements to hospital employees and the Boston Globe that allegedly suggested the nurses were culpable for incidents in the unit and described serious concerns about patient safety and quality of care. Nine nurses sued the hospital defendants for defamation and other claims; some of the nurses had obtained relief in labor arbitration, including reinstatement, back pay, and expungement of wrongdoing allegations.

PROCEDURAL HISTORY

The nurses sued the hospital defendants for defamation and other claims after statements by the hospital president concerning abuse at the hospital's adolescent psychiatric unit. The hospital defendants previously appealed the denial of an anti-SLAPP motion; in *Blanchard I*, the Supreme Judicial Court augmented the *Duracraft* framework and remanded. On remand, the Superior Court judge again denied the special motion to dismiss, denied the requested depositions, and concluded that the defamation claim was colorable and not primarily brought to chill petitioning activity. The Supreme Judicial Court affirmed those rulings and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The denial of the special motion to dismiss and the denial of the request for depositions are affirmed, and the matter is remanded to the Superior Court for further proceedings.

CASES CITED

- *Blanchard v. Steward Carney Hospital, Inc.*, 477 Mass. 141 (2017)
- *Duracraft Corp. v. Holmes Prods. Corp.*, 427 Mass. 156 (1998)
- *477 Harrison Ave., LLC v. JACE Boston, LLC*, 477 Mass. 162 (2017)
- *Cardno ChemRisk, LLC v. Foytlin*, 476 Mass. 479 (2017)
- *Baker v. Parsons*, 434 Mass. 543 (2001)
- *Fabre v. Walton*, 436 Mass. 517 (2002), S.C., 441 Mass. 9 (2004)
- *L.B. v. Chief Justice of the Probate & Family Court Department*, 474 Mass. 231 (2016)
- *Commonwealth v. Levin*, 7 Mass. App. Ct. 501 (1979)
- *Draghetti v. Chmielewski*, 416 Mass. 808 (1994)

- Matter of the Discipline of an Attorney, 442 Mass. 660 (2004)
- Parreira v. Commonwealth, 462 Mass. 667 (2012)
- McLaughlin v. Selectmen of Amherst, 422 Mass. 359 (1996)
- Office One, Inc. v. Lopez, 437 Mass. 113 (2002)
- Donovan v. Gardner, 50 Mass. App. Ct. 595 (2000)
- Burley v. Comets Community Youth Center, Inc., 75 Mass. App. Ct. 818 (2009)
- Benoit v. Frederickson, 454 Mass. 148 (2009)
- Elles v. Zoning Bd. of Appeals of Quincy, 450 Mass. 671 (2008)
- Commonwealth v. Lodge, 431 Mass. 461 (2000)

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