

SUPREME COURT OF LOUISIANA

Conner v. Stelly

807 So. 2d 827 (La. 2002) · No. 2002-CC-0280 · Decided February 7, 2002

SUMMARY

The Louisiana Supreme Court held that although a \$100,000 malpractice settlement establishes liability and damages of at least \$100,000, the plaintiff must prove that the malpractice caused damages exceeding that amount in a trial against the Patient's Compensation Fund. The court reversed the trial court's prohibition on presenting evidence of victim or third-party fault and remanded for further proceedings, with dissents arguing that such fault issues were precluded after the provider admitted liability and settled.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	February 7, 2002
DOCKET	2002-CC-0280
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Supreme Court of Louisiana considered an application arising from a medical-malpractice action against the Patient's Compensation Fund. The court granted the application in part, reversed a portion of the trial court's judgment, and remanded for further proceedings.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion
PARTIES	Jerrilyn Conner, Jerome Conner v. Dr. Howard Stelly, Patient's Compensation Fund

TOPICS

- medical malpractice
- health law
- professional negligence
- appellate procedure

PRACTICE AREAS

- medical malpractice
- health law
- torts

QUESTIONS PRESENTED

1. Whether payment of \$100,000 in settlement establishes proof of liability and damages of at least \$100,000 resulting from the malpractice, while leaving the plaintiff responsible for proving damages exceeding \$100,000 against the Patient's Compensation Fund.
2. Whether the Patient's Compensation Fund may argue or present evidence that victim or third-party fault caused damages beyond the \$100,000 settlement.

HOLDINGS

1. Payment of \$100,000 in settlement establishes proof of liability for the malpractice and proof of damages of at least \$100,000 resulting from the malpractice, but the plaintiff retains the burden of proving that the admitted malpractice caused damages exceeding \$100,000.
2. The Patient's Compensation Fund may argue or present evidence before the jury that victim or third-party fault caused damages, notwithstanding the provider's \$100,000 settlement and admission of malpractice liability.

KEY QUOTATIONS

“Although payment of \$100,000 in settlement establishes proof of liability for the malpractice and for damages of at least \$100,000 resulting from the malpractice, at the trial against the Fund, the plaintiff has the burden of proving that the admitted malpractice caused damages in excess of \$100,000.” (807 So. 2d at 827)

“Accordingly, that portion of the trial court's judgment prohibiting the PCF from arguing or presenting evidence before the jury that victim or thirdparty fault caused any of the damages in this case is reversed.” (807 So. 2d at 827)

FACTUAL BACKGROUND

Dr. Howard Stelly admitted liability for medical malpractice and paid or tendered \$100,000 in settlement. The plaintiffs pursued additional damages against the Patient's Compensation Fund, which sought to argue that victim or third-party fault caused some of the damages. The trial court barred the Fund from presenting that fault evidence.

PROCEDURAL HISTORY

The health-care provider admitted liability and paid or tendered \$100,000 in settlement. In the subsequent trial against the Patient's Compensation Fund, the trial court prohibited the Fund from arguing or presenting evidence that victim or third-party fault caused any damages. The Supreme Court reversed that restriction in part and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The portion of the trial court's judgment prohibiting the Patient's Compensation Fund from arguing or presenting evidence before the jury that victim or third-party fault caused damages is reversed. The matter is remanded to the trial court for further proceedings; the judgment is otherwise left undisturbed.

CASES CITED

- Graham v. Willis-Knighton Med. Ctr., 97-0188 (La. 9/9/97), 699 So. 2d 365

OPINION

PER CURIAM.

807 So. 2d 827 (2002) Jerrilyn and Jerome CONNER v. Dr. Howard STELLY, et al. No. 2002-CC-0280. Supreme Court of Louisiana. January 30, 2002. Dissenting Opinion February 7, 2002. Dissenting Opinion of Chief Justice Calogero, February 7, 2002. PER CURIAM. Granted in part.

Although payment of \$100,000 in settlement establishes proof of liability for the malpractice and for damages of at least \$100,000 resulting from the malpractice, at the trial against the Fund, the plaintiff has the burden of proving that the admitted malpractice caused damages in excess of \$100,000. Graham v. Willis-Knighton Med. Ctr., 97-0188 (La.9/9/97), 699 So.

2d 365. Accordingly, that portion of the trial court's judgment prohibiting the PCF from arguing or presenting evidence before the jury that victim or thirdparty fault caused any of the damages in this case is reversed.

In all other respects, the application is denied. Case remanded to the trial court for further proceedings. JOHNSON, J., dissents. CALOGERO, C.J., dissents and will assign reasons. WEIMER, J., dissents from the order, believing relator has an adequate remedy on appeal. *828 CALOGERO, Chief Justice dissents and assigns reasons. I dissent from the majority's determination that Graham v. Willis-Knighton Med.

Ctr., 97-0188 (La.9/9/97), 699 So. 2d 365, allows the patient's compensation fund to argue and present evidence of victim or third-party fault when the health care provider admits liability and tenders payment of \$100,000.

In Graham, this court held as follows: [t]he legislative intent of "liability" in Section 1299.44 C(5) was that the payment of \$100,000 in settlement establishes proof of liability for the malpractice and for damages of at least \$100,000 resulting from the malpractice, which is a very significant benefit to the medical malpractice victim.

However, at the trial against the Fund, the plaintiff has the burden of proving that the admitted malpractice caused damages in excess of \$100,000. Graham does not address whether the Patient's Compensation Fund (PCF) should be allowed to introduce evidence of victim and third party fault when the health care provider has admitted liability and tendered \$100,000.

That issue is res nova in this court and the matter should be granted and docketed for this court's careful consideration. In this case, there is a strong argument against allowing the PCF to introduce victim or third party fault.

Under the medical malpractice act, the total amount that can be recovered by a victim against a qualified health care provider is \$100,000. The remainder, up to \$500,000 (exclusive of future medical care and related benefits) can be recovered from the PCF. See La. Rev. Stat. 1299.42.

Thus, the PCF must provide payment only when the health care provider has caused damages in excess of \$100,000. But, when the health care provider admits liability and tenders the \$100,000 without trying third party or victim fault before the court, those issues become res judicata and cannot be urged again by the patient's compensation fund.

Here, Dr. Stelley chose to admit liability and settle prior to trial and hence the PCF cannot relitigate what has already been admitted. For the foregoing reasons, I respectfully dissent from the majority.