

## SUPREME COURT OF LOUISIANA

# Ballard v. Plantation Management Co.

99 So. 3d 16 (La. 2012) · Decided October 8, 2012

### SUMMARY

Justice Johnson would have granted the writ application in a wrongful death action arising from a nursing-home resident's fall, hip fracture, and subsequent death. The dissent concludes that affidavits from a geriatric nurse and forensic pathologist provided sufficient evidence of the applicable standard of care, breach, and causation to defeat summary judgment.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                  |
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| COURT                 | Supreme Court of Louisiana                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Johnson, Justice; Grant, Justice; Knoll, Justice                                                                                                                                                                                                                 |
| JURISDICTION          | Louisiana                                                                                                                                                                                                                                                        |
| DECIDED               | October 8, 2012                                                                                                                                                                                                                                                  |
| DISPOSITION           | other                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Plaintiff sought review of summary judgment rejecting her wrongful-death claim arising from her mother's fall and death while residing at a nursing home. Justice Johnson dissented from the denial of the writ application and would have granted review.       |
| STANDARD OF REVIEW    | Summary judgment is appropriate when the evidence shows no genuine issue of material fact and the mover is entitled to judgment as a matter of law; the nonmoving plaintiff must present sufficient evidence to satisfy the applicable burden of proof at trial. |
| PRECEDENTIAL VALUE    | Dissenting opinion; the legal analysis is not binding standing alone.                                                                                                                                                                                            |
| PARTIES               | Daisy Ballard v. Plantation Management Co.                                                                                                                                                                                                                       |

### TOPICS

[summary judgment](#)[nursing home liability](#)[medical malpractice](#)[wrongful death](#)[standard of care](#)

### PRACTICE AREAS

[civil procedure](#)[medical malpractice](#)[nursing home liability](#)[wrongful death](#)[evidence](#)

## QUESTIONS PRESENTED

1. Whether Ballard submitted sufficient expert evidence concerning the applicable nursing-home standard of care, breach, and causation to defeat summary judgment on the wrongful-death claim.
2. Whether an expert affidavit opposing summary judgment must state the applicable medical-malpractice standard of care with a particular level of specificity.

## HOLDINGS

1. Justice Johnson would hold that Ballard's affidavits, considered together, supplied sufficient evidence of the applicable standard of care, breach, and causation to defeat summary judgment.
2. Justice Johnson would hold that Louisiana law does not require the standard of care to be established with a particular level of specificity when a plaintiff opposes summary judgment in a medical-malpractice case, so long as the evidence identifies the standard and supports specific breaches.

## KEY QUOTATIONS

*“A plaintiff pursuing a medical malpractice claim against a nursing home must prove, by a preponderance of the evidence, the applicable standard of care, the breach of that standard of care, and a causal connection between the medical negligence and the patient’s injuries.” (17)*

*“Moreover, this Court has never held that the standard of care must be established with a particular level of specificity for purposes of opposing summary judgment in medical malpractice cases.” (17)*

## FACTUAL BACKGROUND

Alma Noble Stubbs was a resident at Harvest Manor when she fell, fractured her hip, developed ensuing complications, and died. Ballard submitted affidavits from geriatric nurse expert Renee Bridges, who identified the applicable standard of care and alleged specific breaches, and forensic pathologist Amy Gruszecki, who opined that the fall significantly contributed to Stubbs's death. Evidence from the nursing home's own expert indicated that close monitoring every thirty minutes was required and that there was no evidence staff complied with that requirement.

## PROCEDURAL HISTORY

Daisy Ballard sued Plantation Management Co. on a wrongful-death claim and other claims based on her mother's fall while a resident at Harvest Manor. The trial court granted summary judgment for the defendant on the wrongful-death claim, finding that Ballard failed to establish the applicable standard of care. The court of appeal upheld that ruling, and Justice Johnson would have granted Ballard's writ application.

## DISPOSITION

other

## CASES CITED

- *Pfiffner v. Correa*, 94-0992 (La. 10/17/94), 643 So. 2d 1228, 1233

- Sepulvado v. Toledo Nursing Ctr., Inc., 2007-122 (La. App. 3 Cir. 5/30/07), 958 So. 2d 135, writ denied, 2007-1583 (La. 10/12/07), 965 So. 2d 406

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