

SUPREME COURT OF FLORIDA

Horowitz v. Plantation General Hospital Limited Partnership

959 So. 2d 176 (Fla. 2007) · No. SC05-331 · Decided May 24, 2007

SUMMARY

The Supreme Court of Florida considered whether section 458.320, Florida Statutes, creates civil liability for a hospital that fails to ensure that a physician with staff privileges satisfies statutory financial responsibility requirements. The court held that the statute does not impose a duty or private cause of action against hospitals for an unsatisfied medical malpractice judgment against the physician. It approved the Fourth District's decision and disapproved conflicting decisions from the Second, Third, and Fifth Districts.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Pariente, J.; Lewis, C.J.; Wells, J.; Anstead, J.; Quince, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	May 24, 2007
DOCKET	SC05-331
DISPOSITION	approved
PROCEDURAL POSTURE	Petition for review of a Fourth District Court of Appeal decision that reversed a trial-court summary judgment awarding the patient approximately \$250,000 against the hospital. The Supreme Court of Florida accepted jurisdiction based on express and direct conflict among district courts of appeal concerning whether section 458.320, Florida Statutes, creates hospital liability for physician noncompliance with financial-responsibility requirements.
STANDARD OF REVIEW	De novo review of the statutory-interpretation issue and the existence of a statutory cause of action.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding statewide precedent.
PARTIES	Stuart Horowitz, as personal representative of Lena Horowitz's estate, et al. v. Plantation General Hospital Limited Partnership

TOPICS

statutory interpretation

legislative intent

medical malpractice

appellate jurisdiction

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether section 458.320, Florida Statutes, imposes a statutory duty on hospitals to ensure that physicians with hospital staff privileges satisfy financial-responsibility requirements.
2. Whether section 458.320 creates a private civil cause of action against a hospital for failing to ensure a staff-privileged physician's financial responsibility.
3. Whether Florida common law independently imposes on hospitals a duty to ensure the financial responsibility of independent-contractor physicians with staff privileges.
4. Whether the trial court properly entered summary judgment for Horowitz based on the contrary district-court decisions recognizing hospital liability.

HOLDINGS

1. Florida common law does not impose a duty on hospitals to monitor or ensure the financial responsibility of independent-contractor physicians with staff privileges.
2. Section 458.320, Florida Statutes, neither imposes a duty on nor creates a civil cause of action against hospitals for failing to ensure the financial responsibility of staff-privileged physicians.
3. The statutory scheme does not demonstrate legislative intent to impose civil liability on hospitals for physician financial-responsibility violations.

KEY QUOTATIONS

"We hold that section 458.320 neither imposes a duty on nor creates a cause of action against hospitals for failing to ensure the financial responsibility of their staff-privileged physicians." (959 So. 2d at 187)

"We agree with the Fourth District that legislative intent, as used in Murthy and its progeny, is a "shorthand reference to the ordinary tools for discerning statutory meaning: text, context, and purpose." (959 So. 2d at 182)

"Although it may be sound public policy for the Legislature to impose an obligation on hospitals to monitor the financial responsibility of physicians who are granted staff privileges, it is outside this Court's purview to imply a statutory cause of action against hospitals where none was intended by the Legislature." (959 So. 2d at 187)

FACTUAL BACKGROUND

Lena Horowitz received treatment from Dr. Derek Jhagroo for an infected thumb and later underwent amputation. Her malpractice claim concerned treatment in Jhagroo's office, not the hospital admission or

surgery, and resulted in an \$859,200.73 judgment against Jhagroo. The judgment was uncollectible because Jhagroo lacked malpractice insurance or other financial responsibility, owned no United States real property, and lived abroad. The Horowitzes sued Plantation General Hospital, alleging that the hospital was liable for failing to ensure Jhagroo's compliance with section 458.320's financial-responsibility requirements as a condition of staff privileges.

PROCEDURAL HISTORY

Lena and Max Horowitz obtained an \$859,200.73 medical-malpractice judgment against Dr. Derek Jhagroo, but the judgment was uncollectible. They then sued Plantation General Hospital, alleging that it breached a statutory duty to ensure that Jhagroo, a staff-privileged physician, maintained financial responsibility. The trial court granted summary judgment for Horowitz and awarded \$250,254. The Fourth District reversed, holding that section 458.320 did not create a statutory cause of action against hospitals, and the Florida Supreme Court approved that decision while disapproving contrary decisions from the Second, Third, and Fifth Districts.

DISPOSITION

approved

CASES CITED

- Plantation General Hospital Ltd. Partnership v. Horowitz, 895 So. 2d 484 (Fla. 4th DCA 2005)
- Robert v. Paschall, 767 So. 2d 1227 (Fla. 5th DCA 2000)
- Baker v. Tenet Healthsystem Hospitals, Inc., 780 So. 2d 170 (Fla. 2d DCA 2001)
- Mercy Hospital, Inc. v. Baumgardner, 870 So. 2d 130 (Fla. 3d DCA 2003)
- Aramark Uniform & Career Apparel, Inc. v. Easton, 894 So. 2d 20 (Fla. 2004)
- Insinga v. LaBella, 543 So. 2d 209 (Fla. 1989)
- Beam v. University Hospital Building, Inc., 486 So. 2d 672 (Fla. 1st DCA 1986)
- Murthy v. N. Sinha Corp., 644 So. 2d 983 (Fla. 1994)
- Transamerica Mortgage Advisors, Inc. v. Lewis, 444 U.S. 11 (1979)
- Freehauf v. School Board of Seminole County, 623 So. 2d 761 (Fla. 5th DCA 1993)
- Villazon v. Prudential Health Care Plan, Inc., 843 So. 2d 842 (Fla. 2003)
- Holly v. Auld, 450 So. 2d 217 (Fla. 1984)
- Borden v. East-European Insurance Co., 921 So. 2d 587 (Fla. 2006)
- Miele v. Prudential-Bache Securities, Inc., 656 So. 2d 470 (Fla. 1995)
- City of Boca Raton v. State, 595 So. 2d 25 (Fla. 1992)
- Forsythe v. Longboat Key Beach Erosion Control District, 604 So. 2d 452 (Fla. 1992)
- Cason v. Florida Department of Management Services, 944 So. 2d 306 (Fla. 2006)
- Rollins v. Pizzarelli, 761 So. 2d 294 (Fla. 2000)
- Golf Channel v. Jenkins, 752 So. 2d 561 (Fla. 2000)
- McCain v. Florida Power Corp., 593 So. 2d 500 (Fla. 1992)

- North Miami Medical Center, Ltd. v. Miller, 896 So. 2d 886 (Fla. 3d DCA 2005)

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