

NORTH DAKOTA SUPREME COURT

Moore v. Fargo Public School District No. 1

2012 ND 79, 815 N.W.2d 273 · Decided April 10, 2012

SUMMARY

The North Dakota Supreme Court considered whether a parent may recover medical expenses paid for an injured minor child when the child's comparative fault exceeds the fault of the defendant. The court held that the parent's claim is derivative of the child's injury and is barred under North Dakota's modified comparative fault statute when the child's fault is greater than the tortfeasor's fault. The court affirmed dismissal of the parent's claim.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Gerald W. Sandstrom, Justice; Gerald W. Sandstrom; Gerald W. VanDeWalle; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner
JURISDICTION	North Dakota
DECIDED	April 10, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment dismissing a parent's claim for medical expenses incurred for his minor son's injuries in a personal-injury action.
STANDARD OF REVIEW	Statutory interpretation is a question of law fully reviewable on appeal.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential
PARTIES	Thomas Moore v. Fargo Public School District No. 1, Eugenia Hart

TOPICS

comparative fault personal injury statutory interpretation damages torts

PRACTICE AREAS

torts personal injury comparative fault statutory interpretation damages

QUESTIONS PRESENTED

1. Whether a parent may recover medical expenses paid for an injured minor child when the child's comparative fault exceeds the fault of the tortfeasor.
2. Whether North Dakota's modified comparative fault statute or parent-child statutes permit the parent to recover the portion of the child's medical expenses corresponding to the defendant's percentage of fault.

HOLDINGS

1. A parent is not entitled to recover medical expenses paid on behalf of an injured minor child when the child's comparative fault exceeds the fault of the tortfeasor.
2. N.D.C.C. § 14-09-21, which provides that neither parent nor child is answerable as such for the act of the other, does not prevent the child's fault from affecting the parent's derivative recovery claim.

KEY QUOTATIONS

“We conclude a parent is not entitled to recover medical expenses paid on behalf of an injured minor child whose comparative fault exceeds the fault of the tortfeasor.” (815 N.W.2d at 280)

“Because Moore’s claim for past medical expenses derives from M.M.’s injuries, and M.M. was denied recovery under our modified comparative fault laws, we conclude the district court correctly dismissed Moore’s claim for M.M.’s medical expenses.” (815 N.W.2d at 280)

FACTUAL BACKGROUND

In May 2004, fifteen-year-old M.M. was seriously injured while practicing a bike stunt in a school auditorium for a history-class event. Moore sought recovery of \$285,000 in past medical expenses that he paid or incurred for M.M. while M.M. was a minor. A jury allocated 70 percent fault to M.M. and 30 percent fault to Eugenia Hart and other District employees.

PROCEDURAL HISTORY

Moore and his son, M.M., sued Fargo Public School District No. 1 and Eugenia Hart after M.M. was injured while practicing a bike stunt at school. The district court initially dismissed the action against the District and a jury found for Hart; the North Dakota Supreme Court reversed and remanded in an earlier appeal. On remand, Hart settled, the jury found M.M. 70 percent at fault and the District's employee or employees 30 percent at fault, and the district court dismissed the action because M.M.'s fault exceeded the District's fault and denied Moore recovery of 30 percent of the medical-expense award. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- M.M. v. Fargo Pub. Sch. Dist. No. 1, 2010 ND 102, 783 N.W.2d 806
- Grager v. Schudar, 2009 ND 140, 770 N.W.2d 692

- *Saltsman v. Sharp*, 2011 ND 172, 803 N.W.2d 553
- *Rodenburg v. Fargo-Moorhead YMCA*, 2001 ND 139, 632 N.W.2d 407
- *Schneider v. Schaaf*, 1999 ND 235, 603 N.W.2d 869
- *Harfield v. Tate*, 1999 ND 166, 598 N.W.2d 840
- *Haff v. Hettich*, 1999 ND 94, 593 N.W.2d 383
- *Stewart v. Ryan*, 520 N.W.2d 39 (N.D. 1994)
- *Leno v. K & L Homes, Inc.*, 2011 ND 171, 803 N.W.2d 543
- *Ward v. Bullis*, 2008 ND 80, 748 N.W.2d 397
- *Hurt v. Freeland*, 1999 ND 12, 589 N.W.2d 551
- *Fetch v. Quam*, 530 N.W.2d 337 (N.D. 1995)
- *Peterson v. Rude*, 146 N.W.2d 555 (N.D. 1966)
- *Handeland v. Brown*, 216 N.W.2d 574 (Iowa 1974)
- *Hasson v. Ford Motor Co.*, 19 Cal. 3d 530, 138 Cal. Rptr. 705, 564 P.2d 857 (1977)
- *Maidman v. Stagg*, 82 A.D.2d 299, 441 N.Y.S.2d 711 (N.Y. App. Div. 1981)
- *Meyer v. State*, 92 Misc. 2d 996, 403 N.Y.S.2d 420 (N.Y. Ct. Cl. 1978)
- *Dartez v. Gadbois*, 541 S.W.2d 502 (Tex. Civ. App. 1976)
- *Eggert v. Working*, 599 P.2d 1389 (Alaska 1979)
- *Runcorn v. Shearer Lumber Prods., Inc.*, 107 Idaho 389, 690 P.2d 324 (1984)
- *Mist v. Westin Hotels, Inc.*, 69 Haw. 192, 738 P.2d 85 (1987)
- *Schobinger v. Ivey*, 467 N.W.2d 728 (N.D. 1991)
- *Lake v. Schaffnit*, 406 N.W.2d 437 (Iowa 1987)
- *Hockema v. J.S.*, 832 N.E.2d 537 (Ind. Ct. App. 2005)
- *Besette v. Enderlin Sch. Dist. No. 22*, 288 N.W.2d 67 (N.D. 1980)
- *Sime v. Tvenge Assocs. Architects & Planners, P.C.*, 488 N.W.2d 606 (N.D. 1992)
- *Kinsella v. Farmers Ins. Exch.*, 826 P.2d 433 (Colo. Ct. App. 1992)
- *Wineman v. Carter*, 212 Minn. 298, 4 N.W.2d 83 (1942)
- *Hoglund v. Dakota Fire Ins. Co.*, 742 N.W.2d 853 (S.D. 2007)
- *Hoerr v. Northfield Foundry & Mach. Co.*, 376 N.W.2d 323 (N.D. 1985)