

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia ex rel. West Virginia University Hospitals, Inc. v. The Honorable Cindy S. Scott, Judge of the Circuit Court of Monongalia County, West Virginia

No reporter citation stated · No. No. 21-0230 · Decided November 22, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia granted a writ of prohibition as moulded in favor of West Virginia University Hospitals, Inc. The court held that the circuit court lacked subject matter jurisdiction over corporate-negligence claims added in an amended complaint because the plaintiffs had not satisfied the Medical Professional Liability Act's pre-suit notice requirements. It also held that the corporate-negligence claims asserted in the original complaint were governed by the Act.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Jenkins
JURISDICTION	West Virginia
DECIDED	November 22, 2021
DOCKET	No. 21-0230
DISPOSITION	writ_granted
PROCEDURAL POSTURE	West Virginia University Hospitals, Inc. petitioned the Supreme Court of Appeals of West Virginia for a writ of prohibition under the court's original jurisdiction after the Circuit Court of Monongalia County denied its motion to dismiss newly added corporate-negligence claims and denied its petition for declaratory judgment concerning application of the West Virginia Medical Professional Liability Act.
STANDARD OF REVIEW	A writ of prohibition is reviewed under the prohibition standards described in State ex rel. Peacher v. Sencindiver, State ex rel. Hoover v. Berger, and Hinkle v. Black. Clear legal error is reviewed de novo when the issue is purely legal.
PRECEDENTIAL VALUE	published
PARTIES	State of West Virginia ex rel. West Virginia University Hospitals, Inc. v. The Honorable Cindy S. Scott, Judge of the Circuit Court of

Monongalia County, West Virginia, A.F., a minor, by and through her next friends, Sarah F. and Daniel F., individually

TOPICS

writ of certiorari subject matter jurisdiction medical malpractice statutory interpretation
declaratory judgment

PRACTICE AREAS

civil procedure medical malpractice health law appellate procedure statutory interpretation remedies

QUESTIONS PRESENTED

1. Whether the circuit court lacked subject matter jurisdiction over the four corporate-negligence claims added in the amended complaint because Respondents failed to comply with the MPLA's pre-suit notice and screening-certificate requirements.
2. Whether the MPLA applies to the additional corporate-negligence claims because they arose from, or were related to, the provision of health care.
3. Whether the circuit court clearly erred by denying WVUH's petition for declaratory judgment concerning application of the MPLA to the corporate-negligence claims in the original complaint.
4. Whether the amended complaint also failed to state claims upon which relief could be granted.

HOLDINGS

1. The MPLA's pre-suit notice-of-claim and screening-certificate requirements are jurisdictional; failure to comply deprives a circuit court of subject matter jurisdiction over the medical professional liability claims.
2. The claims for failure to purchase and utilize air filters, failure to document, spoliation of evidence, and failure to report a sentinel event are governed by the MPLA because, as pleaded, they are anchor or ancillary claims arising in the context of rendering health care services.
3. The circuit court clearly erred by denying WVUH's petition for declaratory judgment because the original corporate-negligence claims for negligent hiring, staffing, training, supervision, protocols, protection, and correction fall within the MPLA.
4. The court did not reach whether the four added claims independently failed to state claims upon which relief could be granted because the lack of subject matter jurisdiction resolved the motion to dismiss.

KEY QUOTATIONS

“The “health care” claim is the “anchor;” it gets you in the door of MPLA application to allow for inclusion of claims that are “contemporaneous to or related to” that claim, but still must be in the overall context of rendering health care services.” (at 15-16)

“When denying declaratory judgment, it is clear that the circuit court ignored the plain language of the statute.” (at 28-29)

FACTUAL BACKGROUND

In October 2017, Sarah F. gave birth to twins at Ruby Memorial Hospital. Respondents alleged that an air embolism entered A.F.'s bloodstream through intravenous equipment after a WVUH-employed nurse failed to properly prime the equipment, resulting in severe neurological impairment and a need for continuous care. The original complaint included medical-negligence and corporate-negligence claims, and the amended complaint added claims concerning air filters, medical-record documentation, spoliation of tubing, and reporting of a sentinel event.

PROCEDURAL HISTORY

Respondents filed an original complaint asserting medical negligence, loss-related claims, and corporate-negligence claims arising from the medical care of a minor child. After WVUH filed an answer and petition for declaratory judgment, Respondents amended the complaint to add four corporate-negligence claims without serving a new MPLA notice of claim and screening certificate of merit. The circuit court denied both WVUH's motion to dismiss and petition for declaratory judgment. The Supreme Court granted the writ as moulded, vacated both orders, directed dismissal of the four additional claims, and directed entry of declaratory judgment that the original corporate-negligence claims fall within the MPLA.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The circuit court must vacate its orders denying WVUH's motion to dismiss and petition for declaratory judgment; dismiss the amended complaint as to the four additional corporate-negligence claims; and grant the petition for declaratory judgment concerning the application of the MPLA to the original corporate-negligence claims.

CASES CITED

- State ex rel. Peacher v. Sencindiver, 160 W. Va. 314, 233 S.E.2d 425 (1977)
- State ex rel. Hoover v. Berger, 199 W. Va. 12, 483 S.E.2d 12 (1997)
- State ex rel. PrimeCare Medical of West Virginia, Inc. v. Faircloth, 242 W. Va. 335, 835 S.E.2d 579 (2019)
- State ex rel. Arrow Concrete Co. v. Hill, 194 W. Va. 239, 460 S.E.2d 54 (1995)
- Blankenship v. Ethicon, Inc., 221 W. Va. 700, 656 S.E.2d 451 (2007)
- James M.B. v. Carolyn M., 193 W. Va. 289, 456 S.E.2d 16 (1995)
- Hinkle v. Black, 164 W. Va. 112, 262 S.E.2d 744 (1979)
- State ex rel. Thornhill Grp., Inc. v. King, 233 W. Va. 564, 759 S.E.2d 795 (2014)
- State ex rel. Gessler v. Mazzone, 212 W. Va. 368, 572 S.E.2d 891 (2002)

- Manor Care, Inc. v. Douglas, 234 W. Va. 57, 763 S.E.2d 73 (2014)
- Boggs v. Camden-Clark Memorial Hospital Corp., 216 W. Va. 656, 609 S.E.2d 917 (2004)
- Minnich v. MedExpress Urgent Care, 238 W. Va. 533, 796 S.E.2d 642 (2017)
- Gray v. Mena, 218 W. Va. 564, 625 S.E.2d 326 (2005)
- Hannah v. Heeter, 213 W. Va. 704, 584 S.E.2d 560 (2003)
- Cox v. Amick, 195 W. Va. 608, 466 S.E.2d 459 (1995)
- Harrison v. Town of Eleanor, 191 W. Va. 611, 447 S.E.2d 546 (1994)
- Crank v. McLaughlin, 125 W. Va. 126, 23 S.E.2d 56 (1942)
- Davis v. Mound View Health Care, Inc., 220 W. Va. 28, 640 S.E.2d 91 (2006)
- Hinchman v. Gillette, 217 W. Va. 378, 618 S.E.2d 387 (2005)

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