

SUPREME COURT OF MISSISSIPPI

Virginia McGee, Individually; and Leroy Mitchell, as Conservator
over the Estate of Virginia McGee v. River Region Medical Center, et
al.

McGee · No. No. 2009-CA-01384-SCT · Decided August 21, 2009

SUMMARY

The Mississippi Supreme Court reviewed a medical-malpractice action involving an intravenous infiltration and burns suffered by Virginia McGee at River Region Medical Center. The court held that the trial judge improperly excluded the plaintiff’s nursing expert’s testimony and directed a verdict for the hospital. It also held that the full medical bill could be admitted into evidence, although amounts written off by the defendant hospital could not be recovered as damages, and it reversed and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Lamar, Justice, for the Court; Waller, C.J.; Carlson, P.J.; Dickinson, P.J.; Randolph, J.; Chandler, J.; Lamar, J.; Pierce, J.; Kitchens, J.
JURISDICTION	Mississippi
DECIDED	August 21, 2009
DOCKET	No. 2009-CA-01384-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McGee appealed from a directed verdict entered for River Region Medical Center in a medical-malpractice action, as well as evidentiary rulings concerning medical bills.
STANDARD OF REVIEW	The grant or denial of a directed verdict is reviewed de novo. The admission or exclusion of evidence is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published, precedential Mississippi Supreme Court opinion
PARTIES	Virginia McGee, individually, Leroy Mitchell, as conservator over the estate of Virginia McGee v. River Region Medical Center, et al.

TOPICS

medical malpractice

expert testimony

damages

standard of review

appellate procedure

PRACTICE AREAS

medical malpractice

health law

evidence

appellate procedure

damages

QUESTIONS PRESENTED

1. Whether the trial court improperly excluded McGee's qualified nursing expert from testifying about the applicable standard of care and then granted River Region a directed verdict.
2. Whether the trial court erred by excluding McGee's entire River Region medical bill from evidence because River Region had written off part of the bill.
3. Whether McGee could recover as damages the portion of the River Region bill that River Region had written off.

HOLDINGS

1. The trial court erred by prematurely striking Dr. Beare's testimony and granting River Region's motion for a directed verdict. A qualified expert who has testified that she is familiar with the applicable standard of care should be permitted to articulate her opinion about whether that standard was breached.
2. The trial court erred to the extent it prohibited McGee from introducing her entire River Region medical bill merely because she could not recover the written-off portion as damages. The entire bill could be relevant to the seriousness and extent of her injuries.
3. McGee could not recover as damages the portion of the River Region bill that River Region itself had written off. The collateral-source rule did not apply because River Region was both the medical provider to whom the bill was owed and the alleged tortfeasor, and no collateral source had paid the written-off amount.

KEY QUOTATIONS

"Often, an expert's discussion of the applicable standard of care is intertwined with his or her discussion of whether a breach occurred." (¶ 13)

"Provided he or she can demonstrate relevance, a plaintiff should be allowed to present evidence of his or her total medical expenses, including those amounts "written off" by medical providers." (¶ 22)

"The rule, by its very language, applies only to prohibit the introduction of evidence of payments from collateral sources wholly independent of the tortfeasor." (¶ 24)

FACTUAL BACKGROUND

Virginia McGee, age seventy-seven, was treated at River Region Medical Center after arriving with weakness, confusion, and low blood sugar. While hospitalized, she suffered an intravenous infiltration in her left arm, followed by swelling and blisters after a warm compress was applied. McGee alleged that River Region's staff negligently caused or treated the infiltration, resulting in nerve damage, disfigurement, pain, and other injuries. River Region had written off part of its medical bill pursuant to its Medicare-provider obligations.

PROCEDURAL HISTORY

McGee sued River Region Medical Center and others after suffering an intravenous infiltration, burns, and related injuries while hospitalized. The Warren County Circuit Court excluded the testimony of McGee's nursing expert, granted River Region's motion for a directed verdict, and ruled that McGee could not introduce the written-off portion of her River Region medical bill. The Supreme Court of Mississippi reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a new trial. McGee may introduce the entire River Region medical bill if relevant, but may not recover as damages the amounts River Region wrote off.

CASES CITED

- Solanki v. Ervin, 21 So. 3d 552, 556 (Miss. 2009)
- Spotlite Skating Rink, Inc. v. Barnes, 988 So. 2d 364, 368 (Miss. 2008)
- Delta Reg'l Med. Ctr. v. Venton, 964 So. 2d 500, 504 (Miss. 2007)
- Coleman v. Rice, 706 So. 2d 696, 698 (Miss. 1997)
- Estate of Northrop v. Hutto, 9 So. 3d 381, 384 (Miss. 2009)
- McDonald v. Mem'l Hosp., 8 So. 3d 175, 180 (Miss. 2009)
- Vaughn v. Miss. Baptist Med. Ctr., 20 So. 3d 645, 654 (Miss. 2009)
- Jones v. State, 918 So. 2d 1220, 1223 (Miss. 2005)
- Vaughn v. Miss. Baptist Med. Ctr., 20 So. 3d 645, 652 (Miss. 2009)
- Purdon v. Locke, 807 So. 2d 373, 378-79 (Miss. 2001)
- Brandon HMA, Inc. v. Bradshaw, 809 So. 2d 611, 613, 618-20 (Miss. 2001)
- Wal-Mart Stores, Inc. v. Frierson, 818 So. 2d 1135, 1137-40 (Miss. 2002)
- Jackson v. Brumfield, 458 So. 2d 736, 737 (Miss. 1984)
- Coker v. Five-Two Taxi Service, Inc., 52 So. 2d 356, 357 (Miss. 1951)
- Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986)
- Vaughn v. Mississippi Baptist Medical Center, 20 So. 3d 645, 656-57 (Miss. 2009) (Kitchens, J., concurring in part and dissenting in part)