

SUPREME COURT OF RHODE ISLAND

Jean Ho-Rath et al. v. Rhode Island Hospital et al.

115 A.3d 938 (R.I. 2015) · No. No. 2012-208-Appeal; No. 2012-211-Appeal · Decided May 19, 2015

SUMMARY

The Rhode Island Supreme Court considered whether Rhode Island General Laws § 9-1-14.1(1) permits medical-malpractice claims to be filed on behalf of a minor at any time before the minor reaches majority, or requires filing within three years of the occurrence or discovery of malpractice. The court held that a parent or guardian must file suit on the minor's behalf within three years, after which the minor may file personally within three years of reaching majority. The court affirmed dismissal of the minor's claims but held that the parents' derivative loss-of-consortium claims could remain viable when the minor later pursues her claims.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Paul A. Suttell; Chief Justice Suttell; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	May 19, 2015
DOCKET	No. 2012-208-Appeal; No. 2012-211-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Superior Court's dismissal of medical-malpractice and parental loss-of-consortium claims as untimely under G.L. 1956 § 9-1-14.1. The appeals were consolidated after an earlier decision vacated judgments concerning Corning Incorporated and Quest Diagnostics, LLC.
STANDARD OF REVIEW	The Court reviews a Rule 12(b)(6) dismissal under the same standard as the hearing justice, confines review to the four corners of the complaint, assumes the pleaded allegations are true, and views the facts favorably to the plaintiffs. Whether a statute of limitations has run and questions of statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; binding Rhode Island Supreme Court precedent.
PARTIES	Jean Ho-Rath, Bunsan Ho-Rath, Yendee Ho-Rath v. Rhode Island Hospital, Miriam Hospital, Women & Infants' Hospital of Rhode

TOPICS

medical malpractice

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether G.L. 1956 § 9-1-14.1(1) permits a minor's parent or guardian to file a medical-malpractice action on the minor's behalf at any time before the minor reaches majority, even when no action was filed within three years of the alleged malpractice.
2. Whether, when no medical-malpractice action is filed on behalf of a minor within three years of the alleged malpractice, the minor may sue only after reaching majority and then within three years thereafter.
3. Whether a parent's derivative loss-of-consortium claim concerning an injured minor is tolled alongside the minor's medical-malpractice claim and may be joined with the minor's later action.

HOLDINGS

1. Section 9-1-14.1(1) gives a minor plaintiff two alternatives: a parent or guardian may file suit on the minor's behalf within three years of the occurrence or reasonable discovery of the malpractice; if no such action is filed within that period, the minor may file on the minor's own behalf only after reaching the age of majority, with three years thereafter to commence the action.
2. A parent's derivative loss-of-consortium claim arising from a minor's medical-malpractice injury is governed by the same limitations period as the minor's underlying claim and is tolled alongside the minor's claim. Although the parents' claims were properly dismissed from the present action, they may be asserted with the minor's later action if the minor elects to sue after reaching majority.

KEY QUOTATIONS

“With this background in mind, we now hold that § 9-1-14.1(1) provides a minor plaintiff in a medical malpractice action with two options.” (946-947)

“In our opinion, it follows from this Court’s precedent and from the language of § 9-1-41(d) that a parent’s claim for loss of consortium in a medical malpractice case should be tolled alongside the minor’s claim from which it is derived.” (950-951)

FACTUAL BACKGROUND

Yendee Ho-Rath was born on January 9, 1998, with alpha thalassemia, a genetic blood disorder. Her parents alleged that medical providers failed to properly test, diagnose, and treat the family, resulting in Yendee's birth

with the disorder. On July 16, 2010, when Yendee was twelve, the parents filed medical-malpractice claims on her behalf and individual claims for loss of her services, companionship, comfort, and consortium.

PROCEDURAL HISTORY

Jean and Bunsan Ho-Rath filed suit on behalf of their minor daughter and asserted individual loss-of-consortium claims. The Superior Court granted defendants' Rule 12(b)(6) motions, concluding that the claims were filed more than three years after the alleged malpractice, while recognizing that Yendee could later sue on her own behalf after reaching majority. The Rhode Island Supreme Court affirmed the dismissal, but held that the parents could append their derivative loss-of-consortium claims to any timely future action brought by Yendee.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The record was ordered returned to the Superior Court. The parents' claims remain dismissed from the present action but may be asserted alongside Yendee's claims if she files suit after reaching majority.

CASES CITED

- Ho-Rath v. Rhode Island Hospital, 89 A.3d 806 (R.I. 2014)
- Woonsocket School Committee v. Chafee, 89 A.3d 778 (R.I. 2014)
- Mendes v. Factor, 41 A.3d 994 (R.I. 2012)
- Rhode Island Employment Security Alliance, Local 401, S.E.I.U., AFL-CIO v. State, Department of Employment and Training, 788 A.2d 465 (R.I. 2002)
- Balletta v. McHale, 823 A.2d 292 (R.I. 2003)
- Hall v. Insurance Company of North America, 727 A.2d 667 (R.I. 1999)
- National Refrigeration, Inc. v. Capital Properties, Inc., 88 A.3d 1150 (R.I. 2014)
- Morel v. Napolitano, 64 A.3d 1176 (R.I. 2013)
- Peloquin v. Haven Health Center of Greenville, LLC, 61 A.3d 419 (R.I. 2013)
- Generation Realty, LLC v. Catanzaro, 21 A.3d 253 (R.I. 2011)
- Bliven v. Wheeler, 23 R.I. 379, 50 A. 644 (1901)
- Rachal v. O'Neil, 925 A.2d 920 (R.I. 2007)
- Bishop v. Jaworski, 524 A.2d 1102 (R.I. 1987)
- Bakalakis v. Women & Infants' Hospital, 619 A.2d 1105 (R.I. 1993)
- Dowd v. Rayner, 655 A.2d 679 (R.I. 1995)
- Roe v. Gelineau, 794 A.2d 476 (R.I. 2002)
- Sama v. Cardi Corp., 569 A.2d 432 (R.I. 1990)
- Malinou v. Miriam Hospital, 24 A.3d 497 (R.I. 2011)
- Fiorenzano v. Lima, 982 A.2d 585 (R.I. 2009)

- Desjarlais v. USAA Insurance Co., 824 A.2d 1272 (R.I. 2003)
- Normandin v. Levine, 621 A.2d 713 (R.I. 1993)
- Soares v. Ann & Hope of Rhode Island, Inc., 637 A.2d 339 (R.I. 1994)
- Leonard v. McDowell, 824 A.2d 1266 (R.I. 2003)

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