

SUPREME COURT OF CONNECTICUT

Briere v. Greater Hartford Orthopedic Group, P.C., 325 Conn. 198

157 A.3d 70 (2017) · Decided April 11, 2017

SUMMARY

Justice Robinson concurs in the Connecticut Supreme Court's decision affirming the Appellate Court's ruling that the plaintiff should have been permitted to amend his medical malpractice complaint to substitute a negligent-retractor theory for the originally pleaded negligent-skull-clamp theory. The concurrence discusses the appropriate standard of appellate review for relation-back determinations, distinguishing plenary review of pleading interpretation from abuse-of-discretion review for fairness, delay, and proof-related considerations.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Robinson, J.
JURISDICTION	Connecticut
DECIDED	April 11, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendants appealed from the trial court's denial of the plaintiff's request to amend the complaint to substitute a medical-malpractice theory based on negligent use of a retractor blade for the originally pleaded theory based on negligent use of a skull clamp. The Appellate Court held that the trial court improperly denied the amendment, and the Connecticut Supreme Court affirmed that judgment.
STANDARD OF REVIEW	Justice Robinson agreed that the comparison of the original and proposed pleadings presents a question of law subject to plenary or de novo review. He reasoned, however, that aspects of the relation-back inquiry involving fairness, prejudice, delay, the nature of the proof, and the types of evidence and experts may warrant abuse-of-discretion review. Because the defendants did not raise those discretionary considerations, he concluded that the appeal was properly analyzed as a pure question of law.
PRECEDENTIAL VALUE	Published concurrence in a Connecticut Supreme Court decision; the majority's disposition is precedential, while Justice Robinson's separate reasoning is nonbinding.

PARTIES

Donald Briere, Nancy Briere v. David Kruger, Greater Hartford Orthopedic Group, P.C.

TOPICS

motion to amend

statute of limitations

pleadings

standard of review

medical malpractice

PRACTICE AREAS

civil procedure

appellate procedure

medical malpractice

QUESTIONS PRESENTED

1. What standard of appellate review applies to a trial court's determination whether an amended complaint relates back for statute-of-limitations purposes?
2. Whether the trial court improperly denied the plaintiff's motion to amend the complaint to substitute a negligent-retractor-blade theory for the originally pleaded negligent-skull-clamp theory.

HOLDINGS

1. The interpretation of the original and proposed pleadings in determining whether an amendment relates back presents a question of law subject to plenary review. When the analysis also requires evaluation of fairness, prejudice, delay, the nature of the proof, or the types of evidence and experts, those discretionary aspects may be reviewed for abuse of discretion.
2. The plaintiff's amendment was properly permitted because the appeal, as presented, involved the legal comparison of the pleadings rather than discretionary considerations concerning timing or the nature of the proof, and the majority's relation-back analysis was consistent with Connecticut precedent.

KEY QUOTATIONS

“To the extent that the majority’s analysis requires us to compare the original and proposed pleadings in order to determine whether the specific allegations underlying the new cause of action “pertain to a specific transaction or occurrence between the parties that was identified in the original complaint,” I agree that this interpretation of the pleadings presents a question of law over which our review is plenary.”

“Insofar as this portion of the majority’s approach implicates the fairness of the proposed amendment to the parties, I believe that our appellate courts should review trial court decisions applying it for the abuse of discretion.”

FACTUAL BACKGROUND

The plaintiffs alleged medical malpractice arising from an orthopedic surgery. The original complaint alleged negligent use of a skull clamp, while the proposed amendment alleged negligent use of a retractor blade during the surgery. The proposed amendment was made late in the litigation, raising concerns about prejudice, delay, and whether the new theory related back to the original pleading.

PROCEDURAL HISTORY

The plaintiff sought to amend the complaint late in the litigation to plead a different negligent-surgical-instrument theory. The trial court denied the request. The Appellate Court reversed or otherwise held that the denial was improper, and the Connecticut Supreme Court affirmed the Appellate Court's judgment. Justice Robinson concurred, agreeing with the result while separately addressing the standard of appellate review for relation-back determinations.

DISPOSITION

affirmed

CASES CITED

- Briere v. Greater Hartford Orthopedic Group, P.C., 158 Conn. App. 66, 75-78, 83-84, 118 A.3d 596 (2015)
- Dimmock v. Lawrence & Memorial Hospital, Inc., 286 Conn. 789, 799-800, 805-806, 945 A.2d 955 (2008)
- Alswanger v. Smego, 257 Conn. 58, 67-68, 776 A.2d 444 (2001)
- Gurliacci v. Mayer, 218 Conn. 531, 547-549, 590 A.2d 914 (1991)
- Sherman v. Ronco, 294 Conn. 548, 554 n.10, 985 A.2d 1042 (2010)
- Austin-Casares v. Safeco Ins. Co. of America, 310 Conn. 640, 660 n.15, 81 A.3d 200 (2013)
- Grenier v. Commissioner of Transportation, 306 Conn. 523, 559, 51 A.3d 367 (2012)
- Giglio v. Connecticut Light & Power Co., 180 Conn. 230, 240, 429 A.2d 486 (1980)
- Dow & Condon, Inc. v. Brookfield Development Corp., 266 Conn. 572, 583, 833 A.2d 908 (2003)
- Motzer v. Haberli, 300 Conn. 733, 747, 15 A.3d 1084 (2011)
- AirKaman, Inc. v. Groppo, 221 Conn. 751, 766-767, 607 A.2d 410 (1992)
- Slayton v. American Express Co., 460 F.3d 215, 226-228 (2d Cir. 2006)
- DiMiceli v. Cheshire, 162 Conn. App. 216, 233-234 & n.9, 131 A.3d 771 (2016)