

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Zoran Potparic, M.D. v. Junie Barnes, Adore Plastic Surgery, LLC, and Cassandre Dorcely-Forges, A.R.N.P.

No. 4D2025-1701 (Fla. 4th DCA Sept. 24, 2025) · No. 4D2025-1701 · Decided September 24, 2025

SUMMARY

The Florida Fourth District Court of Appeal granted Zoran Potparic, M.D.’s petition for writ of certiorari and quashed an order denying his motion to dismiss a medical negligence action. The court held that the expert affidavit submitted during presuit proceedings did not corroborate the different negligence theory alleged in the second amended complaint, requiring dismissal under sections 766.203(2) and 766.206(2), Florida Statutes. The case was remanded with directions.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Forst, J.; Gross, J.; Gerber, J.
JURISDICTION	District Court of Appeal of the State of Florida, Fourth District
DECIDED	September 24, 2025
DOCKET	4D2025-1701
DISPOSITION	remanded
PROCEDURAL POSTURE	Petition for writ of certiorari challenging the circuit court's order denying a motion to dismiss a medical-negligence action for failure to comply with Florida's statutory presuit corroboration requirements.
STANDARD OF REVIEW	Certiorari review is available when a trial court departs from the essential requirements of law, resulting in material injury for the remainder of the case that cannot be corrected on postjudgment appeal. In medical-malpractice presuit matters, certiorari may be used to review compliance with the procedural requirements.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Zoran Potparic, M.D. v. Junie Barnes, Adore Plastic Surgery, LLC, Cassandre Dorcely-Forges, A.R.N.P.

TOPICS

medical malpractice

writ of certiorari

appellate procedure

civil procedure

standard of review

PRACTICE AREAS

medical malpractice

civil procedure

appellate procedure

health law

QUESTIONS PRESENTED

1. Whether certiorari review was available to determine compliance with Florida's medical-negligence presuit requirements.
2. Whether an expert affidavit supporting an abandoned negligence theory corroborated the different negligence theory asserted in the second amended complaint.
3. Whether the circuit court was required under section 766.206(2), Florida Statutes, to dismiss the claim after finding that the affidavit did not support the operative negligence theory.

HOLDINGS

1. Certiorari review is available to determine whether the procedural aspects of Florida's medical-negligence presuit requirements have been satisfied, including whether the plaintiff submitted a qualifying corroborating expert affidavit.
2. A corroborating expert affidavit must support the negligence theory asserted in the operative complaint; an affidavit addressing an abandoned theory does not satisfy the statutory corroboration requirement for a materially different theory.
3. When the plaintiff fails to submit a corroborating expert affidavit supporting the operative medical-negligence claim, section 766.206(2) requires dismissal of the claim.

KEY QUOTATIONS

“Florida courts have permitted certiorari review solely to ensure that the procedural aspects of the presuit requirements are met.” (3)

“The purpose of the medical expert opinion is to assure the defendants, and the court, that a medical expert has determined that there is justification for the plaintiff’s claim; that is, the purpose is not to give notice of the plaintiff’s claim, but rather to corroborate that the claim is legitimate.” (3)

“Thus, the expert’s affidavit does not meet the low bar of qualifying as a “corroborating affidavit” at all.” (4)

“We are simply correcting the trial court’s legal error in failing to apply the remedy which, as section 766.206(2) commands, must follow from its own express findings: “[T]he court shall dismiss the claim.”” (5)

FACTUAL BACKGROUND

Potparic performed a surgical procedure on Barnes in September 2021. Barnes alleged postsurgical complications and submitted an expert affidavit stating that Potparic violated the standard of care by performing Level III office surgery while improperly registered with the Florida Department of Health, and that the nurse administering anesthesia violated the standard of care because Potparic was not properly registered. Discovery

established that Potparic was properly registered, after which Barnes abandoned that theory and amended her complaint to allege that the nurse was not properly registered; Barnes did not submit a new expert affidavit supporting the amended theory.

PROCEDURAL HISTORY

Barnes sued Potparic for medical negligence after a September 2021 surgical procedure and submitted an expert affidavit supporting a theory that Potparic was improperly registered to perform the surgery. Discovery established that Potparic was properly registered, and Barnes amended her complaint to assert a different theory based on the nurse's alleged lack of registration without submitting a new affidavit. The circuit court denied Potparic's motion to dismiss, finding that the issue was better suited for summary judgment. Potparic sought certiorari review, and the Fourth District granted the petition, quashed the order, and remanded with directions to dismiss the claim.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Petition granted and circuit court order quashed; the circuit court was directed to dismiss the claim under section 766.206(2), Florida Statutes.

CASES CITED

- Univ. of Fla. Bd. of Trs. v. Carmody, 372 So. 3d 246, 251-53 (Fla. 2023)
- Williams v. Oken, 62 So. 3d 1129, 1133-34, 1137 (Fla. 2011)
- Rell v. McCulla, 101 So. 3d 878, 881 (Fla. 2d DCA 2012), rev. dismissed, 140 So. 3d 538 (Fla. 2014)
- Ragoonanan ex rel. Ragoonanan v. Assocs. in Obstetrics & Gynecology, 619 So. 2d 482, 484 (Fla. 2d DCA 1993)
- Rafferty v. Martin Mem'l Med. Ctr., Inc., 335 So. 3d 144, 144 (Fla. 4th DCA 2022)
- Tomas v. Sandler, 406 So. 3d 1089, 1093-94 (Fla. 3d DCA 2025)
- Howell v. Balchunas, 284 So. 3d 1180, 1181-83 (Fla. 1st DCA 2019)
- Kukral v. Mekras, 679 So. 2d 278 (Fla. 1996)
- Morris v. Muniz, 252 So. 3d 1143 (Fla. 2018)

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