

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION FOUR

Carrillo v. County of Santa Clara

Carrillo · No. B322810 · Decided March 13, 2023

SUMMARY

The California Court of Appeal affirmed dismissal of Emilio Carrillo’s medical negligence claim against the County of Santa Clara as barred by the statute of limitations. The court held that Carrillo had to comply with both Code of Civil Procedure section 340.5 and Government Code section 945.6, and that he was on inquiry notice of his injury no later than the December 2017 amputation.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Four
WRITING FOR THE COURT	Scaduto, J.; Collins, Acting P.J.; Currey, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Four
DECIDED	March 13, 2023
DOCKET	B322810
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of dismissal entered after the trial court sustained the County's demurrer without leave to amend on statute-of-limitations grounds.
STANDARD OF REVIEW	A demurrer admits the truth of all material facts properly pleaded, but conclusory allegations are insufficient to establish delayed discovery. Whether allegations show inquiry notice as a matter of law may be resolved on demurrer when they support only one legitimate inference. The appellate court reviewed the statute-of-limitations ruling de novo.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Emilio Carrillo v. County of Santa Clara

TOPICS

- statute of limitations
- medical malpractice
- motions to dismiss
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a medical-negligence action against a public entity health-care provider must comply with both the one-year or three-year limitations periods in Code of Civil Procedure section 340.5 and the six-month filing period in Government Code section 945.6.
2. Whether the allegations of Carrillo's first amended complaint established a delayed-discovery exception to section 340.5's one-year limitations period.
3. Whether the Court of Appeal needed to decide the County's alternative immunity argument under Government Code section 844.6.

HOLDINGS

1. When both Code of Civil Procedure section 340.5 and Government Code section 945.6 apply to a medical-negligence claim against a public entity, the plaintiff must comply with the deadlines in both statutes. Section 945.6 does not extend or replace section 340.5's one-year discovery-based limitations period.
2. Carrillo's first amended complaint did not support delayed accrual under the discovery rule because it failed to plead specific facts showing that he could not have discovered the alleged negligent cause earlier through reasonable diligence. The allegations also established, at least as a matter of law, that a reasonable person would have been on inquiry notice by the time of the amputation.
3. The court did not reach whether Government Code section 844.6, subdivision (a)(2), independently immunized the County from liability for injury to a prisoner.

KEY QUOTATIONS

“We hold that, here, where both section 945.6 and MICRA apply, Carrillo was obligated to meet the deadlines set forth in both statutes.” (at 8)

“A patient ‘is charged with ‘presumptive’ knowledge of his negligent injury, and the statute commences to run, once he has ‘notice or information of circumstances to put a reasonable person on inquiry, or has the opportunity to obtain knowledge from sources open to his investigation’” (at 10)

FACTUAL BACKGROUND

In December 2017, while in County custody, Carrillo developed a blister on the bottom of his right foot. A County nurse allegedly popped the blister over Carrillo's objection while he was restrained; the wound became infected, leading to gangrene, septic shock, and amputation of the foot on December 20, 2017. Carrillo alleged that he first suspected the nurse's treatment caused the injury after visiting the Mexican Consulate in April 2018. He presented a claim to the County on June 18, 2018, and filed suit on January 18, 2019, more than one year after the amputation.

PROCEDURAL HISTORY

Carrillo filed a medical negligence action against Santa Clara County arising from the treatment of a foot blister and subsequent amputation. The superior court sustained the County's demurrer without leave to amend, concluding that the action was barred by the one-year limitations period in Code of Civil Procedure section 340.5. Carrillo appealed, and the California Supreme Court transferred the appeal from the Sixth Appellate District to the Second Appellate District. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Anson v. County of Merced (1988) 202 Cal.App.3d 1195
- Roberts v. County of Los Angeles (2009) 175 Cal.App.4th 474
- In re Marriage of Cornejo (1996) 13 Cal.4th 381
- Kitzig v. Nordquist (2000) 81 Cal.App.4th 1384
- Fox v. Ethicon Endo-Surgery, Inc. (2005) 35 Cal.4th 797
- Gutierrez v. Mofid (1985) 39 Cal.3d 892
- Wall Street Network, Ltd. v. New York Times Co. (2008) 164 Cal.App.4th 1171
- Saliter v. Pierce Brothers Mortuaries (1978) 81 Cal.App.3d 292
- Excelsior College v. Board of Registered Nursing (2006) 136 Cal.App.4th 1218