SUPREME COURT OF NEVADA

# Munda v. Summerlin Life & Health Insurance

127 Nev. 918 (2011) · Decided December 29, 2011

## SUMMARY

The Nevada Supreme Court held that ERISA § 514(a) did not preempt the Mundas' negligence-based claims against Summerlin because the alleged conduct arose from Summerlin's independent role as a managed care organization rather than its administration of an ERISA plan. The court reversed dismissal of the negligence and derivative loss-of-consortium claims and remanded for further proceedings. It affirmed dismissal of the bad-faith claim because the complaint did not allege an intent to deprive the plaintiffs of the benefits of their contract.

## CASE DETAILS

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| COURT | Supreme Court of Nevada |
| WRITING FOR THE COURT | Douglas, J.; Saitta, C.J.; Cherry, J.; Gibbons, J.; Hardesty, J.; Parraguirre, J. |
| JURISDICTION | Nevada |
| DECIDED | December 29, 2011 |
| DISPOSITION | reversed_and_remanded |
| PROCEDURAL POSTURE | The Mundas appealed from an order granting Summerlin's NRCP 12(b)(5) motion to dismiss their state-law claims on the ground that ERISA preempted them. |
| STANDARD OF REVIEW | The court reviewed the NRCP 12(b)(5) dismissal de novo, accepted the plaintiffs' factual allegations as true, drew every reasonable inference in their favor, and asked whether it appeared beyond a doubt that they could prove no set of facts entitling them to relief. |
| PRECEDENTIAL VALUE | Published Nevada Supreme Court opinion; precedential. |
| PARTIES | Janise Munda, Gibb Munda v. Summerlin Life & Health Insurance Company |

## TOPICS

health law · insurance · negligence · insurance bad faith · motions to dismiss

## PRACTICE AREAS

ERISA preemption | health-care law | managed care liability | insurance bad faith | civil procedure

## QUESTIONS PRESENTED

1. Whether ERISA § 514(a) preempted the Mundas' negligence and negligence-per-se claims based on Summerlin's alleged failure to comply with NRS 695G.180.
2. Whether the claims were preempted when Summerlin was acting in its independent capacity as a managed care organization rather than solely as an ERISA plan administrator or agent.
3. Whether the Mundas stated a viable bad-faith claim or merely restated their negligence claim.
4. Whether the derivative loss-of-consortium claim survived dismissal.

## HOLDINGS

1. NRS Chapter 695G does not have a prohibited reference to or connection with an ERISA plan under the facts alleged, and ERISA § 514(a) does not preempt state-law claims against an MCO based on conduct undertaken independently of its role as an ERISA plan administrator.
2. The district court could not dismiss the negligence-based claims because the allegations were legally sufficient and it was not beyond doubt that the Mundas could prove no set of facts entitling them to relief.
3. The Mundas' breach-of-implied-covenant-of-good-faith-and-fair-dealing claim was properly dismissed because it merely restated their negligence claim and alleged no facts showing that Summerlin intended to deprive them of the benefits of the contract.
4. The loss-of-consortium claim was not dismissed because it was derivative of the negligence claim, which survived dismissal.

## KEY QUOTATIONS

> *"We conclude that under the set of facts alleged before us, there is no preemption because respondent Summerlin Life & Health Insurance Company's alleged actions were independent of the administration of the ERISA plan; therefore, the district court erred in granting Summerlin's motion to dismiss."* (921)

> *"ERISA § 514(a) does not preempt claims that are brought against Summerlin in its capacity as an MCO, instead of in its capacity as an ERISA plan administrator."* (926)

## FACTUAL BACKGROUND

Summerlin operated as an insurer and managed care organization and contracted with a medical clinic to provide health-care services to its insureds. The clinic allegedly engaged in unsafe practices between 2004 and 2008, and Janise Munda, who was insured through an ERISA-governed employer health plan, allegedly contracted hepatitis C after receiving treatment there. The Mundas alleged that Summerlin negligently failed to evaluate, audit, monitor, and supervise the clinic as required by Nevada's managed-care quality-assurance statute.

## PROCEDURAL HISTORY

The Mundas sued Summerlin for negligence, negligence per se, breach of the implied covenant of good faith and fair dealing, and loss of consortium, alleging that Summerlin failed to evaluate, audit, monitor, and supervise an unsafe medical provider as required by NRS 695G.180. The district court dismissed the claims under ERISA preemption and NRCP 12(b)(5). The Nevada Supreme Court reversed the dismissal of the negligence-based and derivative loss-of-consortium claims, affirmed dismissal of the bad-faith claim, and remanded for further proceedings.

### DISPOSITION

reversed_and_remanded

### REMAND INSTRUCTIONS

Remand to the district court for further proceedings consistent with the opinion; dismissal of the negligence-based and loss-of-consortium claims is reversed, while dismissal of the bad-faith claim is affirmed.

### CASES CITED

- Cervantes v. Health Plan of Nevada, 127 Nev. 789, 263 P.3d 261 (2011)
- Sanchez v. Wal-Mart Stores, 125 Nev. 818, 221 P.3d 1276 (2009)
- Vacation Village v. Hitachi America, 110 Nev. 481, 874 P.2d 744 (1994)
- Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985)
- Insco v. Aetna Health & Life Insurance Co., 673 F. Supp. 2d 1180 (D. Nev. 2009)
- Aetna Health Inc. v. Davila, 542 U.S. 200 (2004)
- Brandner v. UNUM Life Insurance Co. of America, 152 F. Supp. 2d 1219 (D. Nev. 2001)
- Golden Gate Restaurant v. City and County of San Francisco, 512 F.3d 1112 (9th Cir. 2008)
- De Buono v. NYSA-ILA Medical and Clinical Services Fund, 520 U.S. 806 (1997)
- New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Insurance Co., 514 U.S. 645 (1995)
- California Division of Labor Standards Enforcement v. Dillingham Construction, N.A., Inc., 519 U.S. 316 (1997)
- Operating Engineers Health & Welfare v. JWJ Contracting Co., 135 F.3d 671 (9th Cir. 1998)
- Bui v. American Telephone & Telegraph Co., 310 F.3d 1143 (9th Cir. 2002)
- Turner v. Mandalay Sports Entertainment, 124 Nev. 213, 180 P.3d 1172 (2008)