

VERMONT SUPERIOR COURT, CIVIL DIVISION, WASHINGTON UNIT

Preston v. Copley Health Systems, Inc., et al.

Preston · No. 25-CV-01118 · Decided February 5, 2026

SUMMARY

The Vermont Superior Court denied Copley Health Systems’ motion to dismiss claims for loss of parental consortium and loss of filial consortium. The court held that Hay v. Medical Center Hospital of Vermont did not limit parental consortium claims to cases involving a permanently comatose parent, and it declined to dismiss the child-consortium claim because Vermont law does not expressly prohibit its recognition. The court also concluded that novel claims should generally proceed beyond the pleading stage where factual development may assist resolution.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Washington Unit
WRITING FOR THE COURT	Daniel Richardson
JURISDICTION	Vermont Superior Court, Civil Division, Washington Unit
DECIDED	February 5, 2026
DOCKET	25-CV-01118
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Vermont Rule of Civil Procedure 12(b)(6) to dismiss Counts V and VI of the complaint, asserting claims for loss of parental consortium and loss of filial consortium. The Vermont Superior Court denied the motion.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts the nonmoving party's factual allegations as true, draws all reasonable inferences in that party's favor, and asks whether it appears beyond doubt that no facts or circumstances would entitle the plaintiff to relief. Dismissal is disfavored, particularly where the asserted theory is novel.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Mikayla Preston, O.W. v. Copley Health Systems, Inc.

TOPICS

- motions to dismiss
- loss of consortium
- civil procedure
- medical malpractice
- health law

PRACTICE AREAS

civil procedure

torts

health law

remedies

QUESTIONS PRESENTED

1. Whether O.W.'s claim for loss of parental consortium was barred because the alleged injury did not render Preston permanently comatose or functionally equivalent to death.
2. Whether Vermont law categorically precluded Preston's claim for loss of her child's consortium.
3. Whether either consortium claim failed as a matter of law under Vermont's Rule 12(b)(6) pleading standard.

HOLDINGS

1. Vermont's recognition of a child's loss-of-parental-consortium claim in *Hay v. Medical Center Hospital of Vermont* is not limited to cases involving a permanently comatose parent. Because the facts relevant to dismissal were disputed and went beyond the pleadings, O.W.'s claim could not be dismissed at this stage.
2. The court declined to dismiss Preston's claim for loss of her child's consortium because Vermont has no statute or binding case law prohibiting recognition of the claim, and the claim was at least a potentially viable novel development of the common law.

KEY QUOTATIONS

"A motion to dismiss . . . is not favored and rarely granted." (at 1)

"There is no basis to dismiss O.W.'s loss of parental consortium claim at this point in the litigation as the facts underlying such a dismissal are in dispute and go beyond the function of a motion to dismiss." (at 3)

"For these reasons, the court declines to dismiss Ms. Preston's consortium claim." (at 4)

FACTUAL BACKGROUND

Mikayla Preston was admitted to Copley Hospital for an elective induction of labor. Hospital personnel allegedly administered the wrong drug intravenously because of an error by the hospital pharmacy. Preston and her son, O.W., allegedly suffered non-fatal injuries, and they asserted claims for loss of consortium: O.W. for loss of parental consortium and Preston for loss of filial consortium.

PROCEDURAL HISTORY

Mikayla Preston and her son, O.W., brought claims arising from the alleged intravenous administration of the wrong drug during Preston's elective labor induction at Copley Hospital. Copley moved to dismiss the two consortium claims under Rule 12(b)(6). The court denied the motion, concluding that the parental-consortium claim was not limited to cases involving a permanently comatose parent and that the parent-child consortium claim was not barred as a matter of law.

DISPOSITION

other

CASES CITED

- Hay v. Medical Center Hosp. of Vermont, 145 Vt. 533 (1985)
- Alger v. Department of Labor & Industries, 2006 VT 115, ¶ 12, 181 Vt. 309
- Colby v. Umbrella, Inc., 2008 VT 20, ¶ 13, 184 Vt. 1
- Bock v. Gold, 2008 VT 81, ¶ 4, 184 Vt. 575
- Derosia v. Book Press, Inc., 148 Vt. 217, 220 (1987)
- Harris v. Sherman, 167 Vt. 613, 615 (1998)
- Whitney v. Fisher, 138 Vt. 468, 471–72 (1980)
- Letourneau v. Claffey, No. 289-12-19 Cacv, 2023 WL 9320693 (Vt. Super. Ct. Dec. 8, 2023)

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