

## SUPREME COURT OF IDAHO

### Edmunds v. Kraner, 142 Idaho 867

136 P.3d 338 (2006) · No. No. 30862 · Decided May 3, 2006

#### SUMMARY

The Supreme Court of Idaho reviewed a medical malpractice action involving alleged gentamicin-related injuries and summary judgment for St. Alphonsus Regional Medical Center. The court upheld the exclusion of an untimely expert witness but held that the trial court abused its discretion by striking a supplemental expert affidavit under the applicable discovery rules. Because the affidavit was admissible and raised genuine issues regarding the applicable standard of care, the court reversed in part, affirmed in part, and remanded for further proceedings.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Idaho                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Burdick, Justice; Burdick; Schroeder, Chief Justice; Eismann; Jones; Kidwell, Pro Tem                                                                                                                                                                                                                                                                                                                                                                                    |
| JURISDICTION          | Idaho                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DECIDED               | May 3, 2006                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | No. 30862                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Plaintiffs appealed from the district court's summary judgment for St. Alphonsus Regional Medical Center and from discovery and evidentiary rulings excluding or striking expert testimony.                                                                                                                                                                                                                                                                              |
| STANDARD OF REVIEW    | Summary judgment is reviewed under the same standard applied by the trial court, viewing facts and inferences in favor of the nonmoving party. The admissibility of affidavits and other evidentiary rulings is reviewed for abuse of discretion. Discovery sanctions and management decisions are also reviewed for abuse of discretion, considering whether the trial court recognized its discretion, acted within applicable legal boundaries, and exercised reason. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| PARTIES               | James R. Edmunds, Janice Edmunds v. St. Alphonsus Regional Medical Center                                                                                                                                                                                                                                                                                                                                                                                                |

## TOPICS

summary judgment

expert testimony

discovery dispute

civil procedure

standard of review

## PRACTICE AREAS

medical malpractice

civil procedure

appellate procedure

evidence

## QUESTIONS PRESENTED

1. Whether the district court abused its discretion by excluding Dr. Rotschafer's untimely disclosed expert testimony.
2. Whether the district court abused its discretion by striking Dr. Hollander's supplemental affidavit as untimely.
3. Whether Dr. Hollander's supplemental affidavit created a genuine issue of material fact concerning the applicable standard of care and St. Alphonsus's alleged breach.
4. Whether the district court abused its discretion by refusing to limit the number of expert witnesses during discovery.
5. Whether the district court's verbatim adoption of St. Alphonsus's proposed findings of fact and conclusions of law constituted reversible error.
6. Whether St. Alphonsus was entitled to attorney's fees on appeal.

## HOLDINGS

1. The district court did not abuse its discretion by excluding Dr. Rotschafer's testimony because the disclosure occurred after the court-ordered deadline and the Edmunds failed to demonstrate an acceptable reason to extend the discovery deadlines.
2. The district court abused its discretion by striking Dr. Hollander's supplemental affidavit as untimely where the pretrial order required disclosure only of expert names and Idaho Rule of Civil Procedure 26(e)(1)(B) required seasonable supplementation of expert testimony.
3. Summary judgment for St. Alphonsus was improper because Dr. Hollander's supplemental affidavit was admissible and, together with St. Alphonsus's expert affidavits, created a genuine issue of material fact concerning the applicable local standard of care and whether it was breached.
4. The district court abused its discretion by refusing to consider the Edmunds' request to limit the number of expert witnesses as a discovery matter.
5. The court did not decide whether the district court committed reversible error by adopting St. Alphonsus's proposed findings of fact and conclusions of law verbatim because reversal of the summary judgment ruling made resolution of that issue unnecessary.
6. St. Alphonsus was not entitled to attorney's fees on appeal because it was not the prevailing party.

## KEY QUOTATIONS

*“a brief order dictating the date of disclosing only the names of expert witnesses cannot trump the requirement of I.R.C.P. 26(e)(1)(B) that parties seasonably supplement their discovery responses as new information is learned or expert opinions change.” (136 P.3d 338, 346)*

*“Neither effective cross-examination nor effective discovery designed to achieve "just, speedy, and inexpensive determination of every action" can take place when one party is allowed to disclose an oppressive number of expert witnesses and the trial court refuses to consider limiting expert testimony.” (136 P.3d 338, 349)*

*“The Court affirms the district court's decision to exclude Dr. Rotschafer's testimony, but reverses the lower court's decisions striking Dr. Hollander's second affidavit and granting St. Alphonsus's motion for summary judgment.” (136 P.3d 338, 350)*

## FACTUAL BACKGROUND

After surgery for a hiatal hernia, James Edmunds lapsed into a coma and was transferred to St. Alphonsus, where Dr. Thomas Kraner treated him. St. Alphonsus pharmacists helped determine and monitor a large single-daily dose of Gentamicin, which James continued receiving for two weeks after discharge. James subsequently developed dizziness, vertigo, tinnitus, and Gentamicin-related ototoxicity, leading the Edmunds to allege negligent dosing and monitoring by St. Alphonsus and other defendants.

## PROCEDURAL HISTORY

The Edmunds sued multiple defendants, alleging that excessive Gentamicin dosing caused James Edmunds to suffer neurotoxicity and ototoxicity. The district court excluded Dr. Rotschafer's testimony, struck Dr. Hollander's supplemental affidavit, denied a motion to limit the number of expert witnesses, and granted St. Alphonsus summary judgment. The Idaho Supreme Court affirmed the exclusion of Dr. Rotschafer's testimony, reversed the striking of Dr. Hollander's affidavit and the grant of summary judgment, reversed the denial of the motion to limit expert witnesses, and remanded for further proceedings.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including consideration of limiting the number of expert witnesses during discovery and proceedings after reinstating Dr. Hollander's supplemental affidavit and reversing summary judgment. The exclusion of Dr. Rotschafer's testimony remains affirmed.

## CASES CITED

- Kolln v. Saint Luke's Reg'l Med. Ctr., 130 Idaho 323, 940 P.2d 1142 (1997)
- Evans v. Griswold, 129 Idaho 902, 935 P.2d 165 (1997)
- Rhodehouse v. Stutts, 125 Idaho 208, 868 P.2d 1224 (1994)
- Dulaney v. St. Alphonsus Reg'l Med. Ctr., 137 Idaho 160, 45 P.3d 816 (2002)

- S. Idaho Prod. Credit Ass'n v. Astorquia, 113 Idaho 526, 746 P.2d 985 (1987)
- Lamar Corp. v. City of Twin Falls, 133 Idaho 36, 981 P.2d 1146 (1999)
- Priest v. Landon, 135 Idaho 898, 26 P.3d 1235 (Ct. App. 2001)
- Perry v. Magic Valley Reg'l Med. Ctr., 134 Idaho 46, 995 P.2d 816 (2000)
- Clark v. Klein, 137 Idaho 154, 45 P.3d 810 (2002)
- Radmer v. Ford Motor Co., 120 Idaho 86, 813 P.2d 897 (1991)
- Stanley v. Lennox Indus., Inc., 140 Idaho 785, 102 P.3d 1104 (2004)
- Hopkins v. Duo-Fast Corp., 123 Idaho 205, 846 P.2d 207 (1993)
- Bailey v. Sanford, 139 Idaho 744, 86 P.3d 458 (2004)
- Sierra Life Ins. Co. v. Magic Valley Newspapers, Inc., 101 Idaho 795, 623 P.2d 103 (1980)
- Herbert v. Lando, 441 U.S. 153, 99 S. Ct. 1635, 60 L. Ed. 2d 115 (1979)
- Hansen v. Universal Health Servs. of Nevada, Inc., 115 Nev. 24, 974 P.2d 1158 (1999)
- Pearce v. Ollie, 121 Idaho 539, 826 P.2d 888 (1992)
- Morris ex rel. Morris v. Thomson, 130 Idaho 138, 937 P.2d 1212 (1997)