

COURT OF APPEALS OF GEORGIA

Christy Coll v. John I. Kelly

A26A0830 (Ga. Ct. App. May 22, 2026) · No. A26A0830 · Decided May 22, 2026

SUMMARY

The Georgia Court of Appeals reversed the dismissal of Christy Coll’s medical malpractice action against chiropractor John I. Kelly. The court held that the expert affidavit was sufficient under OCGA §§ 9-11-9.1 and 24-7-702(c)(2) to support allegations concerning Kelly’s failure to obtain and properly interpret an unobstructed X-ray, although the affiant was not qualified to opine on chiropractic treatment or causation arising from that treatment. The court remanded after concluding that dismissal of the complaint in its entirety was improper.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Markle, J.; Barnes, P. J.; Hodges, J.
JURISDICTION	Georgia Court of Appeals
DECIDED	May 22, 2026
DOCKET	A26A0830
DISPOSITION	reversed
PROCEDURAL POSTURE	Coll appealed the dismissal of her medical malpractice complaint for failure to attach an expert affidavit satisfying OCGA § 9-11-9.1.
STANDARD OF REVIEW	The grant of a motion to dismiss is reviewed de novo. The pleadings are construed in the light most favorable to the plaintiff, well-pleaded allegations are treated as true, and doubts concerning the complaint or supporting expert affidavit are resolved in the plaintiff’s favor.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Christy Coll v. John I. Kelly

TOPICS

- motions to dismiss
- professional negligence
- pleadings
- health law
- standard of review

PRACTICE AREAS

- medical malpractice
- professional negligence
- civil procedure
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether Dr. Royal was qualified under OCGA § 24-7-702 and OCGA § 9-11-9.1 to provide an expert opinion concerning Kelly's taking and reading of an X-ray.
2. Whether Royal's affidavit sufficiently identified at least one negligent act or omission and its factual basis to satisfy OCGA § 9-11-9.1.
3. Whether the trial court properly dismissed the complaint in its entirety where Royal was not qualified to opine on chiropractic treatment but was qualified to opine on the X-ray-related standard of care.

HOLDINGS

1. Under OCGA § 43-9-16(g), a chiropractor performing X-rays is held to the same standard of care as qualified medical doctors who perform the same procedure under similar circumstances. Accordingly, Royal could be qualified to opine on whether Kelly met the standard of care in taking and reading the X-ray, even though Royal was not a chiropractor.
2. Royal's affidavit was sufficient under OCGA §§ 9-11-9.1 and 24-7-702(c)(2) because it identified Kelly's alleged negligent acts in taking only one X-ray while an obstruction remained and failing to obtain additional images, and supplied the factual basis for those allegations.
3. The trial court erred by dismissing the complaint in its entirety because, although Royal was unqualified to opine on chiropractic treatment or causation arising from that treatment, his affidavit adequately supported the independent X-ray-related theory of professional negligence.
4. Any challenge to dismissal of Coll's ordinary-negligence claim was abandoned because Coll made no appellate argument concerning that claim.

KEY QUOTATIONS

“We review the grant of a motion to dismiss de novo, construing the pleadings “in the light most favorable to the plaintiff” and treating “all well-pled allegations in the complaint as true.”” (1)

“Importantly, when the dismissal is based on the sufficiency of an expert’s affidavit under OCGA § 9-11-9.1, this Court has cautioned that OCGA § 9-11-9.1 imposes a pleading requirement, not an evidentiary requirement.” (1)

“At the motion to dismiss stage, we must “construe the affidavit most favorably to the plaintiff and all doubts should be resolved in the plaintiff’s favor, even if an unfavorable construction of the affidavit may be possible.”” (9)

“Although it is possible that the discovery process will dispel liability on the part of ... the defendant[], the purpose of OCGA § 9-11-9.1 is to reduce the number of frivolous malpractice suits being filed, not to require a plaintiff to prove a prima facie case entitling her to recover and capable of withstanding a motion for summary judgment before the defendant need file [his] answer.” (9)

FACTUAL BACKGROUND

Coll sought treatment from Kelly, a licensed chiropractor, for neck and shoulder pain. Kelly took an X-ray, but Coll's necklace obscured part of the cervical spine; he did not repeat the X-ray before treating and manipulating her spine. Coll experienced immediate sharp pain and later required additional medical care. Her expert, Dr. Jeremy Royal, opined that Kelly breached the standard of care by failing to obtain an unobstructed image and that an infection was likely present when Kelly examined her.

PROCEDURAL HISTORY

Coll sued Kelly for negligence and professional negligence arising from an X-ray and subsequent chiropractic treatment. The trial court granted Kelly's motion to dismiss, concluding that Coll's expert, Dr. Jeremy Royal, was not qualified to opine on the standard of care applicable to chiropractic treatment. The Court of Appeals reversed the dismissal of the complaint in its entirety because Royal's affidavit was sufficient as to the alleged breach involving the taking and reading of the X-ray.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment dismissing the complaint in its entirety is reversed. The opinion does not state additional specific remand instructions.

CASES CITED

- Blau v. Ga. Dep't of Corr., 364 Ga. App. 1, 2 (873 SE2d 464) (2022)
- McLeod v. Costco Wholesale Corp., 369 Ga. App. 717, 718 (894 SE2d 442) (2023)
- Hendrix v. Fulton DeKalb Hosp. Auth., 330 Ga. App. 833, 836 (769 SE2d 575) (2015)
- Cantrell v. AU Med. Center, 358 Ga. App. 41, 44(2), 45(2) (853 SE2d 137) (2020)
- Dodge County Hosp. Auth. v. Seay, 366 Ga. App. 1, 4 (880 SE2d 571) (2022)
- Grogan v. City of Dawsonville, 305 Ga. 79, 89(4) n.7 (823 SE2d 763) (2019)
- Bryant v. Okafor, 367 Ga. App. 629, 630-31 (887 SE2d 689) (2023)
- Bacon County Hosp. & Health Sys. v. Whitley, 319 Ga. App. 545, 549-50 (737 SE2d 328) (2013)
- Graham v. Reynolds, 343 Ga. App. 274, 278(2)(a) (807 SE2d 39) (2017)
- Russell v. Kantamneni, 363 Ga. App. 899, 904 (873 SE2d 458) (2022)

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