SUMMARY STATEMENT

Kelly J. Nork v. Benedict J. Taylor, M.D., and Saint Alphonsus Regional Medical Center, Inc.
Docket No. 52415

In this case arising out of Ada County, the Court of Appeals affirmed the district court's judgment dismissing Kelly J. Nork's complaint for medical malpractice. Nork was diagnosed with stage IV metastatic melanoma and was experiencing severe pain to her left, fourth rib. She was referred to Dr. Benedict J. Taylor at Saint Alphonsus Regional Medical Center (collectively Respondents) to determine whether surgery was appropriate. Ultimately, Dr. Taylor performed the surgery and installed a titanium plate in place of the removed rib. Following the surgery, Nork experienced discomfort. About ten months after the surgery, Dr. Taylor discovered the implanted plate had fractured and he removed it. Nork subsequently filed her complaint as well as an expert witness disclosure in which she identified her standard of care expert. Respondents moved for summary judgment, arguing Nork failed to establish that her proposed standard of care expert had "actual knowledge" of the applicable standard of care. Following a hearing on the motion, the district court determined that Nork's proposed expert lacked "actual knowledge" of the applicable local standard of care and granted summary judgment in favor of Respondents. Nork filed a motion for reconsideration, which the district court also denied.

On appeal, Nork challenged the district court's finding that she failed to disclose a qualified expert witness, arguing that her proposed expert should not have been classified as an "out-of-area" expert. Nork further asserted that, even if her proposed expert was an "out-of-area" expert, the district court erred in finding he lacked "actual knowledge" of the applicable standard of care. The Court rejected these arguments, holding that the proposed expert was an "out-of-area" expert and that there was no evidence in the record to suggest he familiarized himself with the applicable local standard of care. Nork also argued the district court erred in denying her motion to reconsider because the district court failed to consider the evidence submitted in support of the motion. The Court disagreed and held that, contrary to Nork's argument, the record showed the district court considered the information and argument in support of the motion. The Court awarded costs, but not attorney fees, to Respondents on appeal.