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Pennsylvania Supreme Court Holds that Corporate Liability Applies to Nursing Homes

In *Scampono v. Highland Park Care Center LLC*, the Court held that nursing homes and affiliated entities may be subject to direct liability. Madeline Scampono was a resident at Highland Park, a nursing home located in Pittsburgh. She was repeatedly hospitalized for urinary tract infections between 2002 and 2004, and in 2004, was hospitalized for dehydration, malnutrition, bedsores and an acute myocardial infarction. Ms. Scampono died of a heart attack in February 2004. Her son filed suit against Highland and its management company, Grane Healthcare on behalf of the estate alleging wrongful death, a survival action, vicarious liability and corporate liability.

The matter went to trial. At the close of plaintiff's evidence, defendants moved for nonsuit regarding all claims against Grane and claims of corporate negligence and punitive damages against Highland. The court granted the motion, but did not dismiss the corporate negligence claim against Highland. The jury returned a verdict in favor of the plaintiff finding Highland directly and vicariously liable. Both parties appealed. Plaintiff argued on appeal that there was sufficient evidence to state claims of direct and vicarious liability against Grane and for punitive damages. Highland argued that the trial court erred in allowing plaintiff's corporate negligence claim against it because nursing homes cannot be held directly liable in accordance with *Thompson v. Nason*. The Superior Court affirmed in part, holding that Highland could be held liable for corporate liability and reversed in part, finding that the plaintiff had offered sufficient evidence to support a corporate negligence claim against Grane and to support punitive damages. Both parties appealed to the Supreme Court.

Highland argued that corporate liability is limited to hospitals and hospital-like entities citing public policy reasons for limiting the doctrine. Highland also argued that nursing homes cannot owe a duty of care to residents in the same way as hospitals because nursing homes do not employ physicians, do not have an administrative staff to report failures of physicians, and must carry out orders of physicians without the ability to challenge the orders. As such, Highland argued that it would be inappropriate to apply a duty of care to nursing homes for acts and/or omissions that commonly occur in hospitals, but are not common in nursing homes. Finally, Highland argued that Grane, as a management company, does not provide comprehensive healthcare, and therefore cannot be held liable for corporate liability.

The Supreme Court rejected defendant's argument that nursing homes and affiliated entities should be categorically exempt from direct liability. The Court noted that there is no applicable judicially or legislatively created immunity, and therefore, such corporations may be sued in tort for direct liability like any other corporation. The Court noted that immunity from liability is the exception and that the default general rule is possible liability. With regard to the applicable duty of care for a nursing home and its management company, the Court remanded the issue to the trial court stating "[t]he court's initial task upon remand is to determine, consistent with this Opinion, whether the two appellants, Highland Park and Grane Healthcare, owed Ms. Scampono legal duties or obligations and to articulate any specific duties that it may find. Whether a trial is then to follow will depend upon the outcome of that inquiry."

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