



Holmes v. Lyons (Ga. S. Ct.)

Topics Covered: Abusive Litigation Against Physicians, Tort Reform

Issue

The issue in this case is whether Georgia's affidavit of merit law, OCGA §9-11-9.1, requires that a preliminary affidavit of merit must set forth a factual basis for a claim of medical malpractice.

AMA Interest

The AMA supports tort reform and opposes abusive lawsuits against physicians.

Case Summary

Thomas Lyons, MD, operated on Bonnie Holmes. Holmes claimed that she was injured because of the surgery. She sued Dr. Lyons, his employer, and a hospital for medical malpractice.

OCGA §9-11-9.1 requires that a complaint for medical malpractice must be supported by an affidavit of a competent expert, which is to set forth "specifically at least one negligent act or omission ... and the factual basis for each such claim." Accordingly, Holmes submitted an affidavit which asserted that Dr. Lyons had "breached the standard of care," as he was physically unable to perform the surgery due to a stroke. The affidavit further stated that Holmes had suffered a "preventable injury" due to Dr. Lyons's physical impairments.

The defendants moved to dismiss, asserting that the affidavit did not specify how Dr. Lyons's disability led to Holmes's injury. The trial court granted the motion and dismissed the complaint. However, the Georgia Court of Appeals found the affidavit sufficient and reversed.

The case is now before the Georgia Supreme Court, with the only issue being whether the affidavit contains the specificity necessary under §9-11-9.1.

Litigation Center Involvement

The Litigation Center will file an *amicus* brief on behalf of Dr. Lyons.