

*Kenneth Barnes v. Connecticut Podiatry Group, P.C., Et Al. (AC 39564)*

The plaintiff brought this action forward seeking damages from the defendant for medical malpractice causing partial amputation of the plaintiff's feet. The plaintiff identified Dr. Gorman, an expert on standard of care and causation, as their expert witness. The plaintiff later filed an amended expert witness disclosure. The trial court denied the defendant's motion to preclude the amended disclosure. The court did however preclude the plaintiff from disclosing any additional experts after that point. The plaintiff later filed a motion for reargument and requested that the trial court reconsider precluding the plaintiff from bringing forward any new witnesses. The plaintiff then filed another expert witness disclosure identifying an additional witness. The court denied that plaintiff's motions, sustaining the court's prior order precluding the plaintiff from bringing forward any additional expert witnesses. The trial court additionally precluded the plaintiff from using expert testimony offered by Dr. Gorman. The court subsequently granted summary judgment in favor of the defendant.

The question presented to the Appellate Court in this appeal is whether the trial court properly precluded the plaintiff from presenting expert testimony from either Dr. Gorman or the additional expert witness whom the court precluded the plaintiff from adding. The Appellate Court affirmed the decision of the lower court and ruled that summary judgement for the defendant was appropriate. In reaching this determination, the Court first looked the plaintiff's contention that the trial court's order precluding the plaintiff from bringing forward any additional expert witnesses constituted a sanction of preclusion and was therefore subject to §13-4 (h). The Court determined that the plaintiff could not prevail on this claim, reasoning that the court order was not a sanction of preclusion, but rather a case management decision. The Court ruled that the order could not be deemed a sanction on the plaintiff as there was nothing in the

record to indicate that the trial court implemented the order as a reaction to the plaintiff violating any provisions set forth in §13-4. The Court further noted that the trial court had inherent authority to make such a case management decision in order to preserve the efficiency of the judicial process. The Appellate Court determined that the trial court has broad discretion in managing its docket and therefore the order precluding the plaintiff from adding additional expert witnesses was not a misuse of that discretion. Additionally, the Court determined that the trial court did not err in their later decision to adhere to that order.

The Court next looked to the plaintiff's claim that the trial court improperly precluded Dr. Gorman from offering expert witness opinions. The Court determined that the plaintiff could not prevail on this claim either. The Court reasoned that Dr. Gorman, as a physician licensed and practicing exclusively in Pennsylvania, did not have the requisite knowledge of Connecticut's prevailing professional standard of care. The Court found that the trial court reasonably precluded Dr. Gorman from offering his opinion as an expert witness on those grounds. The Court further noted that it was proper to preclude Dr. Gorman's opinions as the plaintiff needed an expert witness to prove that the partial amputations of the plaintiff's feet could have been avoided had the defendant not breached their duty of care. Dr. Gorman himself "averred that he did not know whether the partial amputations of [the plaintiff's] feet could have been prevented and that a vascular surgeon was needed" in order to make such an assertion. Therefore, the trial court properly ruled that Dr. Gorman was unable to testify as to whether the defendant breached the standard of care owed to the plaintiff or whether that breach caused the injuries; thus, the court properly precluded him as an expert witness.

Lastly, the Court considered the plaintiff's claim that the trial court erred in granting the defendant's motion for summary judgment. The Court determined that the trial court properly

granted the motion for summary judgement. The Court reasoned that the plaintiff could not establish the prima facie elements of a medical malpractice case and therefore summary judgement was appropriate. Because Dr. Gorman's opinion was properly precluded, and the plaintiff was also precluded from bringing forward any additional witnesses, the plaintiff was able to establish neither the standard of care nor the causation elements through expert testimony as is required in a medical malpractice case. The Court determined that the trial court properly ruled on this case and upheld summary judgement in favor of the defendants.