

Bond Case Briefs

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Campbell County Memorial Hosp. v. Pfeifle

Supreme Court of Wyoming - January 7, 2014 - P.3d - 2014 WY 3

Patient filed suit against county hospital, anesthesia services provider that had contract with hospital, and nurse anesthetist employed by provider, based on anesthetist's alleged negligence in administration of epidural injections to patient. The District Court denied hospital's motion for partial summary judgment on basis of immunity and hospital appealed.

The Supreme Court of Wyoming held that:

- Hospital's motion for judgment on pleadings was properly converted to one for summary judgment, for purposes of standard of review on appeal from denial of motion;
- Order denying hospital's motion was appealable interlocutory order;
- Anesthetist was not "public employee," within meaning of Wyoming Governmental Claims Act; and
- Wyoming Supreme Court's holding in *Sharsmith v. Hill* did not amount to implicit waiver of county hospital's sovereign immunity from suit.

Nurse anesthetist employed by anesthesia services provider that had contract with county hospital was not "public employee," within meaning of Wyoming Governmental Claims Act, for purposes of determining whether hospital had waived its sovereign immunity from vicarious liability for alleged negligence of anesthetist, in patient's medical malpractice action, where nurse was not employee of governmental entity, and she was not acting in course of providing contract services for state institution, insofar as county hospital was not listed as one of state institutions enumerated therein.

Wyoming Supreme Court's holding in *Sharsmith v. Hill* that hospital could be vicariously liable for alleged negligence of non-employees or independent contractors under theory of ostensible agency did not amount to implicit waiver of county hospital's sovereign immunity from suit, based on theory of vicarious liability, for alleged medical negligence of nurse anesthetist employed by anesthesiology services provider that had contract with hospital. Rather, decision regarding whether or not hospital had waived its immunity from suit was matter for legislature, not courts, to decide.