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Brothers v. Kimball County Hospital

Supreme Court of Nebraska - January 16, 2015 - N.W.2d - 289 Neb. 879

After receiving treatment at Kimball County Hospital, patient filed a tort claim pursuant to the Political Subdivisions Tort Claims Act (Act) and later filed suit against the County, the hospital, and a physician. The district court dismissed the county and entered summary judgment in favor of the hospital and the physician. The Nebraska Court of Appeals affirmed.

The patient appealed, alleging that the Court of Appeals erred by (1) finding that the County was properly dismissed and failing to reverse and remand for a summary judgment hearing at which patient would have the opportunity to present evidence and (2) determining that Kimball County Hospital and physician were properly dismissed based on lack of service of the tort claim pursuant to the Act.

The Supreme Court of Nebraska affirmed, holding that:

- As a matter of law, a county hospital is a separate and distinct political subdivision from the county, and thus any error in failing to allow the patient to present evidence on the county's motion to dismiss was harmless;
- Because the patient did not file his tort claim with the statutorily designated individual, he failed to comply with notice requirements of the Act.