

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Gordon D. Schaber Superior Court, Department 25

JUDICIAL OFFICER: HONORABLE JULIE G. YAP

Courtroom Clerk: L. Homsanith
Court Attendant: C. Levy

CSR: None

25CV009026

November 19, 2025
1:30 PM

WALKER, et al.

vs

**COMMONSPIRIT HEALTH, A NONPROFIT
CORPORATION, et al.**

MINUTES

APPEARANCES:

No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion to Strike Plaintiffs' Claim for Punitive Damages

TENTATIVE RULING:

Defendants Commonspirit Health's and Dignity Health's (Defendants) Motion to Strike Plaintiffs' Claim for Punitive Damages is ruled upon as follows.

Defendants' request for judicial notice of pleadings filed in this action and of state agency records of licensing information is granted. (Evid. Code, § 452, subd. (c), (d); *Arroyo v. Plosay* (2014) 225 Cal.App.4th 279, 296 [hospital's license issued by State Department of Public Health was properly subject to judicial notice].)

Background

Plaintiffs Emilliano Walker, Kalia Zachary, and Dalee Marez filed this action following the death of Tonya Walker, the mother of Mr. Walker and the sister of Ms. Zachary and Ms. Marez.

Plaintiffs allege that Ms. Walker was admitted to Mercy General Hospital, which is owned and operated by Defendants, on October 31, 2023. (Compl. ¶¶ 4, 43.) Plaintiffs further allege that Ms. Walker died at Mercy General Hospital on November 2, 2023. (Compl. ¶¶ 4, 46.)

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Plaintiffs allege that after Ms. Walker died, no physician or anyone else provided the required information for a death certificate, or notified any of her family members that Ms. Walker had died. (Compl. ¶¶ 46-49.) Despite the fact that Ms. Walker was not registered as an organ donor and Defendants did not obtain Ms. Walker's family's consent to harvest her organs for donation, Plaintiffs allege that Defendant Dignity Health "unilaterally made the decision to make Ms. Walker an organ donor, and then without any permission whatsoever, harvested Ms. Walker's eyes and tissue." (Compl. ¶¶ 43, 47.)

Thereafter, Plaintiffs allege, Defendant Dignity Health contacted non-moving Defendant Mortuary Support Services of Northern California, LLC (MSSNC) to transport Ms. Walker's body from the hospital to the morgue for storage on November 2, 2023. (Compl. ¶ 48.) Plaintiffs allege that "at the time of transferring custody of Ms. Walker's body to the MSSNC Defendants, Dignity did not provide any information to the MSSNC Defendants...to use in preparing Ms. Walker's death certificate, despite having a legal obligation to do so." (*Ibid.*) Plaintiffs allege that afterwards, "MSSNC billed Dignity on a monthly basis for the MSSNC Defendants 'storage' of Ms. Walker's body." (Compl. ¶ 49.)

Because they were unaware of Ms. Walker's admission to the hospital or death, Plaintiffs became concerned due to the lack of contact with Ms. Walker and the fact that she was not answering their phone calls; October 27, 2023 was the last day that Plaintiffs heard from Ms. Walker. (Compl. ¶ 51.) On approximately November 10, 2023, Plaintiffs allege that the family filed a missing person's report with the Sacramento Police Department, and began searching for Ms. Walker. (Compl. ¶ 52.) Plaintiffs posted on social media, prepared thousands of missing person flyers which they posted and handed out throughout Sacramento, and offered a reward for information about Ms. Walker's whereabouts. (Compl. ¶¶ 52-53.) Plaintiffs called local hospitals, including Mercy General, to see if any had information about Ms. Walker, but "Plaintiffs did not receive a response from a single hospital, including Mercy General or any other Dignity hospital." (Compl. ¶ 54.) Nevertheless, Plaintiffs allege they continued searching for Ms. Walker for over seven months, investigating tips and messages from people claiming to have information about Ms. Walker's whereabouts, including some claiming to have kidnapped her. (Compl. ¶¶ 55-59.)

Plaintiffs allege that on May 31, 2024, officers with the Sacramento Police Department notified them that Ms. Walker had died, and that her remains were being held at a local crematorium. (Compl. ¶ 61.) The officers told Plaintiffs "that the remains required further identification to definitively confirm Ms. Walker's identity." (*Ibid.*) Later that day, Plaintiffs allege that Ms. Zachary and Ms. Marez went to the MSSNC facility to view Ms. Walker's remains. (Compl. ¶ 62.) There, the sisters were escorted "into the back room" where Ms. Walker's remains "were covered by a medical cover." (Compl. ¶ 63.) Plaintiffs allege "[w]hen the cover was pulled back, it revealed a grotesque and disturbing sight beyond imaginability," due to MSSNC's failure to properly store the body. (Compl. ¶ 63.)

Plaintiffs further allege that Defendants "failed to timely finalize Ms. Walker's death certificate and deliver it to the local registrar" as required. (Compl. ¶ 65.) Had Defendants done so,

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Plaintiffs allege, “law enforcement would have been notified about Ms. Walker’s death and could have in turn notified Plaintiffs.” (*Ibid.*) Plaintiffs allege that Ms. Walker’s death certificate was ultimately issued on June 7, 2024, but the physician certifying the certificate was not the attending physician listed on the hospital’s “notification of death documents.” (Compl. ¶ 66.)

Plaintiffs’ Claims

Plaintiffs filed this action on April 15, 2025. In the Complaint, Plaintiffs assert four causes of action: (1) Intentional Infliction of Emotional Distress; (2) Negligence; (3) Negligent Hiring, Training, and Supervision; and (4) Gross Negligence. Causes of Action One and Two are asserted against all defendants. Causes of Action Three and Four are asserted against Defendants Dignity Health and Commonspirit Health only.

Plaintiffs request general, special, and punitive damages.

The Instant Motion to Strike

Defendants Dignity Health and Commonspirit Health move to strike Plaintiffs’ claim for punitive damages. Defendants argue that Plaintiffs’ suit is based on claims for “professional negligence” as defined by the Medical Injury Compensation Reform Act (“MICRA”), and thus a court order authorizing a request for punitive damages is required before Plaintiffs may include such request in their Complaint. (See Code Civ. Proc., § 425.13, subd. (a).)

Code of Civil Procedure section 425.13 (Section 425.13), subdivision (a), requires a plaintiff to obtain leave of court before including a claim for punitive damages in any complaint in an action for damages arising out of the professional negligence of a health care provider. (Code Civ. Proc. § 425.13, subd. (a).) Punitive damages may only be sought after prevailing on a motion to amend pursuant section 425.13. (*Central Pathology Med. Clinic v. Superior Court* (1992) 3 Cal.4th 181, 189 (*Central Pathology*).)

The California Supreme Court has explained that “identifying a cause of action as an ‘intentional tort’ as opposed to ‘negligence’ does not itself remove the claim from the requirements of [Code of Civil Procedure] section 425.13(a).” (*Central Pathology, supra*, 3 Cal.4th at p. 192.) “The allegations that identify the nature and cause of a plaintiff’s injury must be examined to determine whether each is directly related to the manner in which professional services were provided...The clear intent of the Legislature is that any claim for punitive damages in an action against a health care provider be subject to the statute if the injury that is the basis for the claim was caused by conduct that was directly related to the rendition of professional services.” (*Ibid.*)

Moving Defendants argue that as against Dignity Health and Commonspirit Health, Plaintiffs’ “allegations concern[] the manner in which Dignity Health rendered its professional services as a hospital with a morgue and how it handled the processing of Ms. Walker’s remains after her death,” and therefore arise out of the professional negligence of a healthcare provider for purposes of Section 425.13. (Opening Mem. 11:2-4.)^[1]

Thus, the dispositive question here is whether the injury that is the basis for Plaintiffs’ claims against the moving Defendants “was caused by conduct that was directly related to the rendition

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of professional services.” (*Central Pathology, supra*, 3 Cal.4th at p. 192.)

- First Cause of Action

Plaintiffs argue that their injuries are not the result of Defendants’ rendition of professional services because their first cause of action, Intentional Infliction of Emotional Distress, is an intentional tort and therefore not within the scope of professional negligence for purposes of MICRA. (Opp’n 3:18-6:21.) Plaintiffs also argue that the gravamen of their IIED claim arises out of the actions relating to the viewing of the body on May 31, 2024, when MSSNC physically possessed the body pursuant to a contract with Defendants. (Opp’n at 5:8-16.)

With respect to Plaintiffs’ first argument regarding an intentional tort, as noted above, a plaintiff’s characterization of a claim as an intentional tort rather than negligence “does not itself remove the claim from the requirements of [Code of Civil Procedure] section 425.13(a).” (*Central Pathology, supra*, 3 Cal.4th at p. 192.) The cases cited by Plaintiffs in which intentional torts were found to be outside of MICRA’s limitations are distinguishable. (See e.g. *Perry v. Shaw* (2001) 88 Cal.App.4th 658 [addressing MICRA’s damages cap on claims “based on” professional negligence, distinguishing section 425.13, which applies to claims “arising out of” professional negligence]; *Unruh-Haxton v. Regents of University of California* (2008) 162 Cal.App.4th 343 [addressing MICRA’s statute of limitations for claims “based upon” alleged professional negligence in context of plaintiffs’ claim that fertility clinic had stolen and sold eggs and embryos for profit, rejecting notion that “allegations of intentional fraud, emotional distress, and stealing are really just another form of professional negligence”]; *Beunun v. Superior Court* (2004) 123 Cal.App.4th 113 [claim arising under separate statute, Elder Abuse Act, not subject to MICRA statute of limitations].)

To the extent Plaintiffs argue that the gravamen of their claim for punitive damages against Dignity Health and Commonspirit Health under the First Cause of Action is vicarious liability (Opp’n 5:8-13), this is not clear from the face of the complaint. The First Cause of Action is asserted against all Defendants and alleges that: (1) “Defendants” failed to properly warn Ms. Walker’s family about the condition of her remains; (2) “Dignity” removed Ms. Walker’s eyes and tissue for organ donation without the consent of her family; (3) “Defendants” failed to notify Ms. Walker’s family that she had died and failed to timely prepare and deliver required documents related to Ms. Walker’s death; (4) “Defendants” failed to timely obtain an Application and Permit for Disposition of Human Remains;” and (5) “Defendants” failed to properly store Ms. Walker’s remains. (Compl. ¶ 71.) While there are general statements against “Defendants” in the allegations, there are insufficient factual allegations in the preceding paragraphs for the Court to conclude that the actual bases for punitive damages against the moving Defendants is holding them liable for MSSNC’s conduct. The allegations regarding the existence of a contract between moving Defendants and MSSNC (Compl. ¶¶ 39, 48-48) is insufficient to assert that this is the gravamen of the punitive damages claim against Defendants.

Instead, it appears on the face of the current complaint that the gravamen of the punitive damages claim against the moving Defendants arises out of professional negligence. Specifically, the factual allegations against Defendants primarily revolve around Plaintiffs’ allegations that they failed to notify Ms. Walker’s family that she had died, failed to timely deliver required documents related to Ms. Walker’s death, including her death certificate, and harvested her organs and tissues without contacting Ms. Walker’s family and obtaining their consent. As a

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licensed hospital, taking appropriate measures following the death of a patient, including notification of family, record preparation, and conduct of any organ donation procedures, is “an ordinary and usual part of [Mercy General’s] medical professional services.” (*Central Pathology, supra*, 3 Cal.4th at p. 193.) For example, a hospital’s obligation to handle patient remains with appropriate care has been deemed an aspect of professional medical services. (*Arroyo v. Plosay* (2014) 225 Cal.App.4th 279, 297-298 [“plaintiff’s negligence claim based on the Hospital’s conduct causing disfigurement to the decedent’s remains is directly related to the professional services provided by the Hospital”].) Further, claims arising from a healthcare provider’s failure to communicate medical information, including intentional misrepresentation, have been held to fall within the scope of professional health care services. (*Id.* at p. 185, 193 [doctor’s failure to communicate test results and subsequent effort to conceal negligence by making misrepresentations to patient was “directly related to the manner in which defendants provided professional services”].)

Where, as here, Ms. Walker’s “only relationship with [Mercy General] hospital was as a patient” and the factual allegations as currently pled revolve around that relationship, Plaintiffs’ claims arising out of the moving Defendants’ conduct after Ms. Walker’s death are subject to the requirements of Section 425.13. (*United Western Medical Centers v. Superior Court* (1996) 42 Cal.App.4th 500, 504.)

2. Second Cause of Action

Under the Second Cause of Action, Plaintiffs allege essentially the same conduct as the First Cause of Action with regard to the handling of Ms. Walker’s remains and procedures following her death. Plaintiffs allege that “Defendants” failed to handle and store Ms. Walker’s remains with ordinary care, failed to notify Ms. Walker’s family that she had died, and failed to timely deliver required documents related to Ms. Walker’s death, including her death certificate. (Compl. ¶¶ 78-79 [Second Cause of Action]. As to the MSSNC Defendants specifically, Plaintiffs allege that these defendants “failed to give Kalia and Dalee sufficient warning about the condition of Ms. Walker’s remains before allowing them to view the remains on May 31, 2024.” (Comp. ¶79(d).)

In opposition, Plaintiffs argue that the allegations of a contract between the moving Defendants and MSSNC also preclude application of Section 425.13 to their claims under the Second Cause of Action. Plaintiffs contend that Section 425.13 does not apply to their second cause of action for negligence to the degree it “arises out of conduct that occurred both after [Ms.] Walker died **and** Dignity transferred possession of Ms. Walker’s remains to MSSNC.” (Opp’n 7:1-2-3, emphasis in original.) Under the second cause of action, Plaintiffs allege that “[a]fter Dignity transferred Ms. Walker’s remains to MSSNC, MSSNC failed to handle Ms. Walker’s remains with ordinary care, MSSNC failed to properly store her remains, and MSSNC failed to give Kalia and Dalee sufficient warning about the conditions of Ms. Walker’s remains before allowing them to view the remains on May 31, 2024. (Opp’n 7:22-26, citing Compl. ¶ 78.) Because MSSNC is not a “healthcare provider” within the meaning of Section 425.13, Plaintiffs argue, they may include a claim for punitive damages under the negligence cause of action. This is so, Plaintiffs argue, because “[w]hile Dignity **did not have possession** of Ms. Walker’s remains during that seven-month period, Dignity nonetheless remains jointly liable for MSSNC’s actions under their contract with MSSNC.” (Opp’n 8:3-5, citing Compl. ¶¶ 39, 48, 49, emphasis in original.)

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As set forth above, however, the gravamen of the claims, as currently pled, does not arise out of the relationship between Defendants and MSSNC, but rather out of the professional services provided by Defendants. Indeed, the specific conduct alleged relating to breach includes a failure to handle Ms. Walker's remains with care, failure to notice the Plaintiffs regarding the death, and failure to take steps relating to the death certificate and disposition of remains. Plaintiffs' factual allegations against Defendants refer to actions taken (or not taken at Mercy Hospital). (See Compl. ¶¶ 4, 44, 46-48.) Plaintiff does not allege specific facts regarding Defendants' role in the storage of the body or, more specifically, in the viewing of the body on May 31, 2024, which Plaintiffs assert is the gravamen of their claim.

Based on the allegation in the complaint, as currently pled, the alleged conduct on the part of the moving Defendants is "directly related to the rendition of professional services," and thus compliance with Section 425.13 is required. (*Central Pathology, supra*, 3 Cal.4th at p. 192.)

3. Third Cause of Action

Under the third cause of action, for Negligent Hiring, Training, and Supervision, Plaintiffs allege that Defendants Dignity Health and Commonspirit Health failed to ensure that staff were adequately trained and supervised in the following areas: (1) the preparation of Ms. Walker's death certificate and delivering it to the funeral provider, (2) making reasonable attempts to give Ms. Walker's family notice of her death; (3) adhering to proper protocols for organ donations. (Compl. ¶ 85.)

As discussed above, this alleged conduct arises from the moving Defendants' hospital-patient relationship with Ms. Walker, and thus is "conduct that was directly related to the rendition of professional services." (*Central Pathology, supra*, 3 Cal.4th at p. 192; see also *Bell v. Sharp Cabrillo Hospital* (1989) 212 Cal.App.3d 1034, 1051 ["a hospital's effectiveness in selecting and periodically reviewing the competency of its medical staff is a necessary predicate to delivering quality health care" and is "within the scope of services a hospital is licensed to provide"].) As such, compliance with Section 425.13 is required.

4. Fourth Cause of Action

Under the fourth cause of action, Plaintiffs allege that Defendants Dignity Health and Commonspirit Health committed gross negligence in taking Ms. Walker's organs without permission. (Compl. ¶¶ 90-92.)

Plaintiffs first argue that Defendants waived any arguments that the Fourth Cause of Action is subject to Section 425.13 because they did not specifically address it in the opening memorandum. However, the opening brief specifically addressed the allegations in the Fourth Cause of Action (Opening Mem. 6:28-7:12) and argued that a hospital's handling of patient remains is within the meaning of professional services for purpose of Section 425.13 (Opening Mem. 11:2-10.) The argument is not waived and the Court will consider application of Section 425.13 to the Fourth Cause of Action.

Like the foregoing causes of action, the conduct alleged under the Fourth Cause of Action arises from Ms. Walker's status as a patient at Mercy General Hospital. The procedures for organ donation are "directly related to the rendition of professional services" and therefore within

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the scope of Section 425.13. (*Central Pathology, supra*, 3 Cal.4th at p. 192.)

Disposition

It appears on the face of the current complaint that the gravamen of the claims for punitive damages against the moving Defendants arises out of professional negligence. Accordingly, to the degree Plaintiffs assert a claim for punitive damages against Defendants Dignity Health and Commonspirit Health, they must comply with Section 425.13, subdivision (a). The Court's determination in this regard does not affect the claim for punitive damages against any other named defendant. (See *Kaiser Foundation Health Plan, Inc. v. Superior Court* (2012) 203 Cal.App.4th 696 [punitive damages claims against health care providers severable from punitive damages claims against non-health care providers].)

The Motion to Strike the Claim for Punitive Damages against the moving Defendants is GRANTED with leave to file a motion pursuant to or otherwise comply with the requirements of Section 425.13, subdivision (a).

To the degree Plaintiffs now assert that the gravamen for the punitive damages claim against the moving Defendants is conduct other than professional negligence, Plaintiffs are granted leave to amend the Complaint. Plaintiffs may file and serve an amended complaint no later than December 2, 2025. Although not required by statute or court rule, Plaintiffs are directed to present the clerk a copy of this ruling at the time of filing the amended complaint. Defendants may file and serve a response within 30 days of service of the amended complaint, 35 days if served by mail.

The Minute Order is effective immediately. No formal order or other notice pursuant to California Rules of Court, rule 3.1312 is required.

^[1] In opposition, Plaintiffs argue that Defendant's memorandum in support of the motion to strike mentions only Defendant Dignity Health and does not appear to be filed on behalf of Defendant Commonspirit Health. However, the notice of motion states that the motion to strike is made by both Dignity Health and Commonspirit Health. The Court construes the motion as made by both Dignity Health and Commonspirit Health.

COURT RULING

There being no request for oral argument, the Court affirmed the tentative ruling.

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/s/ L. Homsanith

L. Homsanith, Deputy Clerk

By:

Minutes of: 11/19/2025

Entered on: 11/19/2025