



Moon v. Rhode, 2016 Ill. LEXIS 775 (Ill. S.Ct. 2016)

Topics Covered: Abusive Litigation Against Physicians

Outcome: Very Unfavorable

Issue

The issue in this case was whether a complaint brought against a radiologist in a wrongful death case was filed within the time allowed under the applicable Statute of Limitations.

AMA Interest

The AMA supports efforts of state medical societies to deter abusive lawsuits.

Case Summary

Kathryn Moon was admitted to a hospital, where she underwent surgery. She was treated or examined by several physicians, including Clarissa Rhode, MD, a radiologist who read Moon's CT scans. Moon died on May 29, 2009.

In February 2013, Moon's estate sent the CT radiographs to a diagnostic radiologist. That same month, the diagnostic radiologist informed the estate that Rhode had negligently misread the scans, and this error had caused or contributed to Moon's death.

Moon's estate then sued Dr. Rhode and her employer in a wrongful death action on March 18, 2013. The defendants moved to dismiss, claiming the suit was untimely. Defendants relied on 740 ILCS § 180/2 of the Illinois Wrongful Death Act, which provides that wrongful death suits must be filed "within 2 years of the death." The trial court granted the motion to dismiss.

The estate appealed, and by a split decision the Illinois Appellate Court affirmed. The majority held that the estate had two years from Moon's death in which to sue, a limitation not met here.

The case was appealed to the Illinois Supreme Court. On September 22, 2016, the Supreme Court reversed both the trial court and the Appellate Court. It held that the time for filing suit was two years after the underlying negligence could or should have been discovered, and so the suit was timely.

Litigation Center Involvement

The Litigation Center and the Illinois State Medical Society filed an amicus brief in support of Dr. Rhode.

Illinois Supreme Court brief