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RELATION BACK

When a complaint is amended subsequent to the passage of the statute of limitations, an issue may arise as to whether the amended complaint relates back to the original complaint for the purpose of calculating the statute of limitations period. Fla. R. Civ. P. 1.190(c) provides

“(c) Relation Back of Amendments. When the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment shall relate back to the date of the original pleading.”

The rule of law in Florida is that the language set forth in this rule must be liberally applied by the Courts. See Ron’s Quality Towing, Inc. v. Southeastern Bank of Florida, 765 So. 2d 134 (Fla. 1st DCA 2000).

In the recent case of C.H. v. Whitney, 33 Fla. L. Weekly D1418 (Fla. 5th DCA, May 30, 2008), the extent of that liberal construction was tested. That case concerned a mother who had gone to a center for the purpose of having an abortion. During the attempted abortion procedure, a doctor was never called and medication was applied for 12 hours in an attempt to still the heart of the fetus. After that did not occur, the mother was required to leave while still in labor and a few hours later gave birth to a premature infant suffering significant physical and mental disabilities.

The initial complaint sounded in medical malpractice but was inappropriately brought by the guardian of the property of the infant seeking

damages for his mental and physical pain and suffering and bodily injury, a classic “wrongful life” cause of action. An amended complaint was filed by the court appointed guardian of the infant seeking the same damages. A motion for summary judgment ensued based upon the improper attempt to recover for wrongful life. The motion pointed out that Florida does recognize a cause of action for “wrongful birth” but that action must be brought on behalf of the parents of the child rather than the child himself and at no time were those parents made a party to the action in either of the complaints filed.

The trial court gave the plaintiff leave to amend and a third complaint was filed, this time brought by the appropriate party plaintiff and alleging an action for wrongful birth. In between the filing of the initial complaint and the filing of the third complaint, the statute of limitations ran. The trial court held that the last complaint had to be dismissed on statute of limitations grounds because it did not relate back to the original pleading since it involved a new and distinct cause of action for wrongful birth which was not originally pled as well as completely new party plaintiffs.

The Fifth District reversed, pointing out that under the above-cited rule all the complaints arose out of the same facts and were claims for medical malpractice. At D1419, the Court held:

“Each of C.H.’s complaints arose out of the same ‘conduct, transaction, or occurrence,’ and included requests for damages for hospitalization and medical expenses. None of the complaints referred to a cause of action for either ‘wrongful life’ or ‘wrongful birth’ or even mentioned those

words. Instead, C.H.'s complaints indicated that the cause of action was for medical malpractice. As such, once C.H. amended her complaint to eliminate the damages disallowed under the legal theory of wrongful life, the trial court should have allowed her cause of action for medical malpractice under the legal theory of wrongful birth to proceed."

On the issue of the substitution of party plaintiffs, the appellate court cited the numerous Florida cases which have held that when a new party is sufficiently related to the original party named in the original complaint so that the addition of the new party does not prejudice the opponent, the relation back doctrine applies to the amended complaint for the purposes of determining the statute of limitations date. See Darden v. Beverly Health & Rehabilitation, 763 So. 2d 542 (Fla. 5th DCA 2000); Griffin v. Workman, 73 So. 2d 844 (Fla. 1954); Ron's Quality Towing, Inc. v. Southeastern Bank of Florida, 765 So. 2d 134 (Fla. 1st DCA 2000); Kozich v. Shahady, 702 So. 2d 1289 (Fla. 4th DCA 1997); City of Miami v. Cisneros, 662 So. 2d 1272 (Fla. 3d DCA 1995); and Roger Dean Chevrolet, Inc. v. Lashley, 580 So. 2d 171 (Fla. 4th DCA 1991).

The purpose of the relation back doctrine as codified in Rule 1.190(c) is to prevent the premature elimination of litigation based upon a technicality which does not prejudice the defendant. Where, as here, the original cause of action is based upon essentially the same facts as those contained within the amended pleadings, the Court is required to liberally construe the rule to allow the amended pleading to relate back to the initial pleading to avoid dismissal on statute of limitations grounds.

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