

Peek v. Manchester Memorial Hospital (AC 41298)

Brief Summary: Plaintiff suffered injuries when she fell at the defendant hospital, months after the fall she was informed that a nurse or nurse's assistant was supposed to be responsible for her safety while at the hospital. Court held that the doctrine of continuing course of treatment was inapplicable as the lawsuit was filed within the three year repose period, further, it held that a genuine issue of material fact existed regarding when the plaintiff discovered her injury. Consequently, reversing the trial court's granting of summary judgment in favor of the defendant.

The plaintiff, Delores Peek, suffered injuries when she fell at the defendant hospital on February 10, 2015 when she was using the restroom. On January 30, 2015, the plaintiff was admitted to Manchester Memorial Hospital. On or about that date, she was assessed at the hospital and found to be at risk for falling. She was placed on "fall prevention protocol" and required assistance to leave her hospital bed. When she fell, she was not being assisted by anybody at the hospital. On or about April 6, 2015, staff at the office of the plaintiff's doctor informed her that a nurse or nurse's aide should have been responsible for her safety while inpatient at the hospital. On November 22, 2016, the plaintiff received an automatic ninety-day extension of the statute of limitation period pursuant to General Statutes § 52-190a(b). She delivered the action to the state marshal for service of process on May 22, 2017. The complaint alleged that the fall resulted from the defendants' negligence in failing to exercise the degree of care, skill, and diligence ordinarily exercised by hospitals engaged in the treatment of patients. The defendants filed a motion for summary judgment, arguing that the plaintiff's action was barred by the statute of limitations § 52-584. The court granted the defendants' motion for summary judgment, concluding that because the fall and injuries occurred on February 10, 2015,

she should have brought the action on or before February 10, 2017, having received a ninety-day extension she had until May 10, 2017. Thus, because the action was not given to the marshal until May 22, 2017 the action is time barred. The two issues on appeal were whether the statute of limitations was tolled by the continuous course of treatment doctrine and whether the plaintiff demonstrated the existence of a genuine issue of material fact as to when she discovered her injury. The court held that the continuous course of treatment doctrine did not toll the statute of limitations, however, the plaintiff did demonstrate the existence of a genuine issue of material fact regarding when she discovered her injury. Thus, the court reversed the decision of the trial court.

Section 52-584 provides: “No action to recover damages for injury to the person . . . shall be brought but within two years from the date when the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered, and except that no such action may be brought more than three years from the date of the act or omission complained of. The first requirement—the discovery portion—requires a plaintiff bring an action within two years from when the injury is first sustained or discovered or in the exercise of reasonable care should have discovered. The second requirement provides that no action shall be brought three years from the date of the act or omission complained of. The three-year period is a statute of repose as it specifies a time period beyond which an action is absolutely barred.

The court rejected the plaintiff’s argument that the statute of limitations was tolled (paused) by the continuous course of treatment doctrine because in *Rosato v. Mascardo* it held that the doctrine applies only to the three-year repose portion, not the two-year repose period. Thus, the doctrine is not applicable in this case because the plaintiff commenced her action

within three years of the “act of omission” (the fall) complained of. Thus, the next issue was whether the plaintiff’s action was time barred under the discovery portion of the statute.

To win on summary judgment the moving party must demonstrate that there is no genuine issue as to any material fact and that they are entitled to judgment as a matter of law. A material fact is any fact that will make a difference in the result of the case.

The limitation period of § 52-584 does not begin until a plaintiff has knowledge or should have had knowledge of sufficient facts to bring a cause of action against the defendant, which requires that a plaintiff is or should have been aware that they had an injury caused by the negligence of the defendant. Thus, the date of the injury is not necessarily when the limitation period begins, rather, it is when the plaintiff knew or should have known that their injury was caused by the defendant’s negligence. For limitation purposes the “actionable harm” occurs when the plaintiff discovers or should have discovered the essential elements of a cause of action—in this case duty, breach, causation, and damages.

The plaintiff argued that summary judgment was inappropriate because a genuine issue of material fact existed regarding when the injury was discovered for purposes of § 52-584. In response to the motion for summary judgment she submitted an affidavit in which she stated that on the date of the fall she was unaware what the cause was and that it was not until April 6, 2015 that she was informed that a nurse or nurse’s aide should have been responsible for her safety while inpatient at the hospital. Further, the plaintiff argued that she did not discover the injury for the purposes of the statute until April 6, 2015. The court concluded that this was sufficient to demonstrate the existence of a genuine issue of material fact because, contrary to the defendants’ assertion that the plaintiff discovered the injury on February 10, 2015, the plaintiff’s evidence suggests that it was not until April 6, 2015 that she was informed that a nurse or nurse’s aide

should have been responsible for her safety. The date of discovery is a material fact because it makes a difference in the case. It makes a difference because the actions ability to proceed is dependent on how it is resolved. Thus, the court reversed the trial court's decision to grant summary judgment in favor of the defendant as a genuine issue of material fact existed.

The key takeaway from this case is that the two-year period under § 52-584 does not begin until the plaintiff knows or should have known that actionable harm occurred. This is salient because those who were injured but unable to discover that it was caused by the negligence of another party right away can still bring an action without being it barred.