

COA Opinion: Intoxication and medical malpractice

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In *Beebe v. Sheely*, No. 292194, the Court of Appeals held that a plaintiff's intoxication at the time of an accident does not shield a medical provider under MCL 600.2955a from liability for malpractice associated with his treatment of the injury.

In *Beebe*, the plaintiff was intoxicated at above a legal limit when he fell from his snowmobile and fractured his right leg. After surgery to treat that injury, Plaintiff alleged that he suffered severe pain and disfigurement that was caused by the surgery. Plaintiff contended that the defendant had committed malpractice in connection with the surgery by failing to diagnose the deep compartment syndrome in his leg after completing the surgery. Based on these facts, the trial court granted defendant's motion for summary disposition, concluding that because plaintiff's intoxication was 50 percent or more of the cause of the snowmobile accident that caused the leg injury, MCL 600.2955a barred recovery.

The Court of Appeals reversed, concluding that although plaintiff's intoxication was the proximate cause of the leg fracture, "the event" that caused his alleged "injury"—the compartment syndrome—was not the snowmobile accident, but rather the alleged malpractice. The Court reasoned that adopting defendant's construction would be contrary to the legislature's intent, because the statute would effectively provide medical professionals a blanket shield to medical malpractice claims brought by plaintiffs that were impaired by a controlled substance when they presented for treatment. In reaching its decision, the Court also distinguished its earlier decision in *Harbor v Correctional Medical Services, Inc*, 266 Mich App 452 (2005), where the decedent's injury—his death—was directly attributable to decedent's chronic alcohol use. The Court noted that plaintiff in the present case sustained two injuries—a broken leg and compartment syndrome—and unlike the plaintiff in *Harbor*, the causal connection between the alleged injury and plaintiff's intoxication was not clear cut.

In concurrence, Justice Bandstra agreed that the relevant "event" under the statute was the alleged malpractice and not the snowmobile accident, but would have refrained from considering the statutory language concerning the causal relationship between plaintiff's alleged injury and the intoxication.