



# Supreme Court holds that an Elder Abuse neglect claim may not be asserted unless the defendant assumed significant responsibility for attending to the basic needs of an elder or dependent adult

May 19, 2016

*Winn v. Pioneer Medical Group*  
(May 19, 2016, S211793) \_\_\_ Cal.4th \_\_\_

Defendants provided outpatient medical care to plaintiffs' mother, who ultimately died. Plaintiffs sued the treating physicians for elder abuse. The trial court sustained defendants' demurrer, but the Court of Appeal reversed on grounds the outpatient facility had a custodial relationship with its patients sufficient to support an elder abuse claim. The California Supreme Court granted review.

In a unanimous decision authored by Justice Cuellar, the Supreme Court reversed the Court of Appeal, holding that the allegations of the plaintiff's complaint were insufficient because "a claim of neglect under the Elder Abuse Act requires a caretaking or custodial relationship — where a person has assumed significant responsibility for attending to one or more of those basic needs of the elder or dependent adult that an able-bodied and fully competent adult would ordinarily be capable of managing without assistance."

The Court rejected the plaintiffs' argument that the Elder Abuse Act neglect standard applied whenever a physician provides medical treatment to an elderly patient at an outpatient facility—"[r]eading the act in such a manner would radically transform medical malpractice liability relative to the existing scheme." Because the plaintiffs failed to adequately allege that the decedent "relied on defendants in any way distinct from an able-bodied and fully competent adult's reliance on the advice and care of his or her medical providers" their complaint was insufficient to support an Elder Abuse cause of action based on the requisite "caretaking or custodial relationship" between the defendants and the decedent.

## More Information

For further information about this case, please contact Horvitz & Levy partner H. Thomas Watson (818.995.0800).