Lawsuit Against Nursing Home for COVID-19 Liability Dismissed



On August 17, 2022, a New Jersey judge dismissed a lawsuit that was filed against a nursing home when one of its nursing home residents contracted COVID-19 and died.

The estate of the decedent alleged that the nursing home failed to implement proper COVID-19 protocols and procedures and employ proper infectious disease control procedures. In defending the allegations, the nursing home argued that it is shielded from liability under P.L. 2020, Chapter 18, a law signed by Governor Phil Murphy on April 14, 2020. According to this law, (i) a health care professional cannot be held liable for civil damages for injury or death in the course of providing medical services in support of the State's response to the coronavirus outbreak during the public health emergency and state of emergency and (ii) a health care facility or health care system that owns or operates more than one health care facility will not be held liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission by its agents, officers, employees, servants, representatives or volunteers if such individual is immune from liability according to paragraph (i). Immunity also applies to acts or omissions taken in good faith to support efforts to treat COVID-19 patients during the public health emergency and state of emergency declared by the Governor. The immunity does not extend to conduct constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.

The judge dismissed the lawsuit because the court could not glean "a cause of action beyond negligence" and the "allegations within the complaint regarding gross negligence and recklessness lack specificity and are altogether too general". The action was dismissed without prejudice, and the estate may file an amended complaint.

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