



Client Alert

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Watson v. The University of Alabama Health Services Foundation, P.C.

The Alabama Supreme Court recently addressed a plaintiff's standing to sue in Alabama wrongful death suits and held the personal representative of the decedent's estate lacked standing because he had been legally discharged as personal representative prior to filing suit.

In *Watson v. The University of Alabama Health Services Foundation, P.C.*, [Ms. 1170057, Apr. 27, 2018] __ So. 3d __ (Ala. 2018), Watson filed a wrongful death suit alleging medical malpractice against the defendant healthcare providers arising out of Mary Fejeran's death. Shortly after Fejeran's death, Watson was appointed as personal representative of Fejeran's estate. Significantly, Watson petitioned the probate court for a final settlement of Fejeran's estate and the probate court entered a final settlement order **before** Watson filed the wrongful death suit. The defendants moved for summary judgment arguing Watson lacked standing to bring the claim because the final settlement order proved Watson had been discharged as the personal representative of Fejeran's estate before he filed suit. After receiving defendants' motion, Watson obtained an order from the probate court seeking to allow him to proceed as personal representative in the wrongful death suit. However, the trial court concluded the final settlement order was a final judgment and entered summary judgment in favor of the defendants because Watson had been discharged as personal representative prior to filing suit and therefore lacked the representative capacity to bring the wrongful death claim.

On appeal, the Alabama Supreme Court affirmed summary judgment in favor of the defendants and held: "Watson, having been legally discharged as personal representative of Fejeran's estate, lacked the representative capacity to bring the wrongful-death action, and the action is therefore a nullity."

The takeaway from *Watson* is insurers and defense counsel should always verify whether someone purporting to have standing to bring a wrongful death claim in Alabama actually has standing to do so.

If you wish to further discuss this case, please contact a Swift, Currie, McGhee & Hiers attorney at 205.314.2401 or via our website, swiftcurrie.com.

The foregoing is not intended to be a comprehensive analysis of the full effect of these changes. Nothing in this notice should be construed as legal advice. This document is intended only to notify our clients and other interested parties about important recent developments. Every effort has been made to ascertain the accuracy of the information contained within this notice.