



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**RASOR/MILLER v. NORTHWEST HOSPITAL LLC  
CV-16-0134-PR**

**PARTIES:**

*Petitioner/Cross-Respondent:* Northwest Hospital L.L.C. d/b/a Northwest Medical Center

*Respondents/Cross-Petitioners:* Karen D. Rasor, Donald Miller

**FACTS:**

Rasor and Miller sued Northwest Hospital for medical negligence after Rasor developed an ulcer during her treatment at the hospital. Rasor certified an expert was needed to prove medical negligence pursuant to A.R.S. § 12-2603(A). Rasor designated expert Julie Ho, R.N., as a specialist in wound care.

After the close of discovery, Northwest Hospital moved for summary judgment pursuant to Arizona Rule of Civil Procedure 56. It asserted Nurse Ho was not qualified to testify as an expert about the standard of care for intensive care unit nurses. Rasor requested time to secure a new qualifying expert pursuant to A.R.S. § 12-2603(F), but the superior court granted judgment in favor of Northwest Hospital.

The Court of Appeals concluded that pursuant to A.R.S. § 12-2604, Nurse Ho was not a qualified expert here, and thus, summary judgment was warranted. However, it also determined that pursuant to A.R.S. § 12-2603(F), Rasor should have had a chance to find a qualifying expert. The Court of Appeals concluded the superior court had abused its discretion by not giving Rasor an opportunity to secure a new expert. It vacated the judgment for Northwest Hospital and remanded.

**ISSUES:**

**Petitioner Northwest Hospital:**

1(a). Does A.R.S. § 12-2604 require that a defendant in a medical malpractice action file a motion challenging a plaintiff's preliminary expert affidavit, submitted pursuant to A.R.S. § 12-2603, before filing a motion for summary judgment?

1(b). When a plaintiff fails to provide the requisite expert testimony in response to a motion for summary judgment challenging the qualifications of a plaintiff's standard of care expert, pursuant to A.R.S. § 12-2604 and Rule 702, Ariz. R. Evid.,

does A.R.S. § 12-2603 dictate that a trial court abuses its discretion, as the Court of Appeals held, by granting summary judgment instead of giving the plaintiff another chance to come up with the requisite evidence because the defendant did not first challenge the preliminary expert affidavit even though the plaintiff argued that the expert was qualified, did not request Rule 56(f), Ariz. R. Civ. P., relief and failed to request an opportunity to substitute the expert until after the discovery deadline and summary judgment deadline?

**Cross-Petitioners Rasor and Miller:**

1. Whether Julie Ho, RN qualified to offer expert opinion under A.R.S. § 12-2604.

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