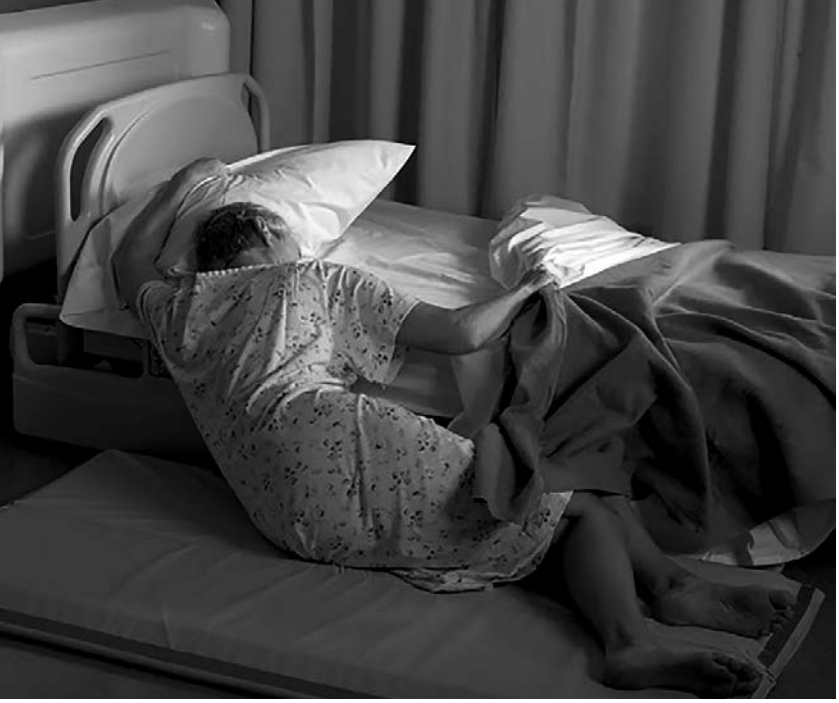

A Claim Is for Medical Negligence – Not General Negligence – When "Integrally Related" to a Patient's Medical Treatment or Diagnosis

By Angela S. Haskins and Vangi M. Johnson

On October 18, 2016, in *Nava v. Saddleback Memorial Medical Center, et al.* (Case No. G052218), the Fourth Appellate District, Division Three considered the latest in a line of cases involving the definition of professional negligence in cases involving health care providers, and the statute of limitations applicable (Code of Civil Procedure section 340.5) to alleged conduct that does not fall squarely within customary medical malpractice scenarios. Publishing one of the first appellate court opinions following the California Supreme Court's decision earlier this year in *Flores v. Presbyterian Intercommunity Hospital* (2016) 63 Cal.4th 75, the *Nava* court explained how a court should approach the key question whether an injury is "integrally related" to health care services, and thus constitutes professional negligence within the meaning of section 340.5. To appreciate the significance of that decision, it helps to review the legal backdrop for the holding.

A brief recap regarding the MICRA statute of limitations

On May 5, 2016, the California Supreme Court filed its Opinion in *Flores v. Presbyterian Intercommunity Hospital* (2016) 63 Cal.4th 75, holding that a claim for negligence in the maintenance of equipment needed to implement a physician's order concerning medical treatment sounded in professional negligence and, therefore, was subject to the one-year statute of limitations set forth in section 340.5, which is a provision of MICRA (Medical Injury Compensation Reform Act of 1975) relating to professional negligence actions against health care providers.

The plaintiff in that matter, Catherine Flores, was receiving medical treatment at the defendant hospital, Presbyterian Intercommunity Hospital, when she fell out of her hospital bed after the latch on the bedrail – raised in accordance with her physician's orders – failed. Almost two years later, she filed her claim against the hospital for negligence and premises liability. The hospital filed a Demurrer, arguing that the claim was barred by the applicable one-year statute of limitations, Section 340.5, as the plaintiff was injured during the rendition of professional services, and she discovered her injury when she fell out of her bed.

In opposition, the plaintiff argued that the act of raising the bedrails was ordinary and not of a professional nature, therefore triggering the two-year statute of limitations pursuant to *Code of Civil Procedure* § 335.1, which governs personal injury actions generally. Agreeing with the defendant hospital, the trial court sustained the demurrer without leave to amend, on the ground that the claim was time-barred. The plaintiff appealed, and the Court of Appeal reversed, finding that the defendant hospital failed to use reasonable care in maintaining its premises.

The *Flores* court addressed whether negligence in the use or maintenance of hospital equipment or premises sounds in professional negligence subject to the one-year statute of limitations in Section 340.5. The court analyzed two seminal cases, *Gopaul v. Herrick Memorial Hospital* (1974) 38 Cal. App.3d 1002 and *Murillo v. Good Samaritan Hospital* (1979) 99 Cal.App.3d 50. In *Gopaul,* the court held that a claim sounds in professional negligence when "the negligence occurred within the scope of the 'skill, prudence, and diligence commonly exercised by practitioners of the profession.' " Framing the test somewhat differently, the *Murillo* Court held that professional negligence is determined by "whether the negligent act occurred in the rendering of services for which the health care provider is licensed." (*See, Flores,* 63 Cal.4th at 82-87.)

Seeking to harmonize these approaches, the *Flores* Court reasoned that the distinction between ordinary and professional negligence depends on the nature of the relationship between the equipment / premises and the provision of medical care to the plaintiff. It held as follows:

> A hospital's negligent failure to maintain equipment that is necessary or otherwise ***integrally related*** to the medical treatment and diagnosis of

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> the patient implicates a duty that the hospital owes to a patient by virtue of being a health care provider. Thus, if the act or omission that led to the plaintiff's injuries was negligence in the maintenance of equipment that, under the prevailing standard of care, was reasonably required to treat or accommodate a physical or mental condition of the patient, the plaintiff's claim is one of professional negligence under section 340.5. (*Id.* at 88, emphasis added.)

The *Flores* court cited with approval cases that had reached a result consistent with that standard. For example, in *Bellamy v. Appellate Department* (1996) 50 Cal.App.4th 797, a plaintiff alleged an injury after falling from an unsecured X-ray examination table, after being left unattended by the hospital staff. More than one year after that alleged incident, the plaintiff in *Bellamy* filed her complaint against the hospital, asserting causes of action for general negligence and premises liability. The trial court sustained the hospital's demurrer to the plaintiff's complaint without leave to amend, on the grounds the action was time-barred by the one-year statute of limitations, set forth in Section 340.5. The Court of Appeal affirmed. The *Bellamy* court reasoned, "Assuming that patient who alleged that she was injured in fall from unattended x-ray table was injured either in the preparation for, during, or after x-ray exam or treatment, her claim against hospital was one for professional negligence such that Medical Injury Compensation Reform Act and its time limitations applied, and action was not governed by general personal injury statute of limitations; under facts alleged, hospital was rendering professional services to patient in taking x-rays and patient would not have been injured but for receiving such services, and any negligence in allowing her to fall thus arose 'in the rendering of professional services." (*Id.* at 806.)

Turning to the facts alleged by the plaintiff in *Flores*, the California Supreme Court concluded that because the physician ordered that the handrails be raised following a medical assessment of the plaintiff's condition, the negligence occurred in the rendering of professional services. Thus, the applicable statute of limitations was Section 340.5, and the Court reversed the decision of the Court of Appeal.

Several other matters on appeal leading up to the *Flores* decision were closely watched by the medical community. Many had been decided by the intermediate appellate courts and then were up by the California Supreme Court on a "grant and hold" basis pending the filing of the decision in *Flores*.

One such case is *Pouzbaris v. Prime Healthcare Services,* formerly published at 236 Cal.App.4th 116, filed by the Fourth Appellate District, Division Three (Santa Ana), on April 23, 2015. The plaintiff, Asma Pouzbaris, appealed the granting of summary judgment entered in favor of the defendant hospital, Anaheim Medical Center. Ms.

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Pouzbaris alleged that while a patient at the hospital, she slipped and fell on a recently mopped floor, which lacked any warning signs. Anaheim Medical Center obtained summary judgment on the ground that the plaintiff's action was time-barred by the one-year statute of limitations, set forth in Section 340.5.

The Court of Appeal reversed, holding that the hospital's alleged conduct of mopping a floor and failing to provide warning signs constituted general negligence subject to the two-year statute of limitations, as set forth in Section 335.1, rather than professional negligence under Section 340.5. The *Pouzbaris* Court defined the pertinent inquiry as whether the negligence occurred "in the rendering of professional services," and concluded that mopping the floor and failing to provide a warning sign did not involve professional services. The court also stated, generally, that the statutory definition of professional negligence does not embrace a negligently maintained, unsafe condition on hospital premises that causes injury to a patient.

In so concluding, the court performed a comprehensive analysis of the pre-MICRA and post-MICRA case law to determine the applicable definition of professional negligence, and ultimately aligned its holding with *Bellamy, supra,* 50 Cal.App.4th 797 and *Murillo, supra,* 99 Cal.App.3d 50, that the statutory definition of professional negligence in Section 340.5 required the determination of "whether the negligence occurs in the rendering of professional services" and not the level of skill required for each individual task. (*Bellamy, supra,* 50 Cal.App.4th at pp. 806-807.) In response, Anaheim Medical Center filed a Petition with the Supreme Court, which granted review and issued a hold order. The case was dismissed by the Supreme Court once its Opinion in *Flores* was filed.

The *Nava* decision holding the line on the MICRA definition of professional negligence.

On October 18, 2016, in *Nava v. Saddleback Memorial Medical Center, et al.* (Case No. G052218), the Fourth Appellate District, Division Three considered yet another case involving the definition of professional negligence and the applicable statute of limitations. The plaintiff, Manuel Nava, filed his case more than one year, but less than two years, after his alleged injury, claiming general negligence and premises liability. The facts alleged were ambiguous, at best. The plaintiff's complaint and first amended complaint stated that "...plaintiff was caused to fall and injure his leg as a result of the dangerous condition of defendant's premises...." In the plaintiff's discovery responses, he claimed, "... gurney collapsed curbside at ambulance on hospital premises." The plaintiff's deposition did not clarify any of the facts surrounding the alleged injury. The medical records maintained by Saddleback Memorial Medical Center documented that, while in the Radiology Department, the plaintiff suffered a fall during transfer by hospital staff from a gurney to an X-ray examination table.

In its Motion for Summary Judgment, Saddleback Memorial Medical Center argued that regardless of the factual scenario, the actions of the hospital staff were in the course of the provision of medical services, and therefore, the applicable statute of limitations was the one-year statute of limitations in Section 340.5.

The trial court in *Nava* agreed with the arguments advanced by the hospital, which relied primarily on *Bellamy, supra,* 50 Cal. App.4th 797, and granted summary judgment. Another defendant, the ambulance service involved, also successfully moved for summary judgment.

The plaintiff appealed the judgment in favor of the hospital, arguing that the personnel providing the services (holding a gurney) were not licensed, and therefore, the actions were general negligence in nature. The

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plaintiff relied heavily on the application of the common law definition of professional negligence set forth in *Gopaul, supra,* 38 Cal.App.3d 1002, which had been discussed by the *Flores* Court. The plaintiff also argued that the definition of professional negligence for purposes of section 340.5 should be informed by the definition applied in *Central Pathology Service Medical Clinic, Inc. v. Superior Court* (1992) 3 Cal.4th 181, where the Supreme Court examined the term professional negligence for purposes of a different statute, Code of Civil Procedure section 425.13, which governs claims for punitive damages against health care providers. The plaintiff noted that when a doctor performs surgery, he or she exercises a task that requires specialized education, training and skill. When a hospital employee is asked to hold up a gurney and not drop it, no such specialized education, training or skill is necessary.

The *Nava* Court disagreed with the plaintiff's arguments, and instead applied the holding from *Flores v. Presbyterian Intercommunity Hospital, supra,* 63 Cal.4th 75, affirming the judgment for the hospital. The Court noted that the unclear facts from which the claim arose were not material for purposes of the appeal. However the disputed or ambiguous facts might be resolved, there could be just two scenarios – the plaintiff suffered a fall during transfer by hospital staff either (a) from a gurney to an X-ray examination table or (b) from a gurney into an ambulance. The *Nava* Court held, "The transfer of Nava in the hospital on a gurney was ***integrally related*** to Nava's medical treatment or diagnosis, and, therefore, the injury occurred in the rendering of professional services." (Emphasis added.) In addition, the *Nava* court stated, "We need not address the pre-*Flores* cases cited by the parties in their briefs regarding the meaning of 'professional negligence' for purposes of section 340.5. (See, e.g. *Gin Non Louie v. Chinese Hospital Assn.* (1967) 249 Cal.App.2d 774; *Gopaul v. Herrick Memorial Hosp.* (1974) 38 Cal. App.3d 1002; *Murillo v. Good Samaritan Hospital* (1979) 99 Cal.App.3d 50; *Flowers v. Torrance Memorial Medical Center* (1994) 8 Cal.4th 992; *Bellamy v. Appellate Department* (1996) 50 Cal.App.4th 797.) In light of the Supreme Court's holding in *Flores,* which governs this case, these cases do not provide any further insight."

Conclusion

Nava v. Saddleback Memorial Medical Center is one of the first opinions by a Court of Appeal to cite and rely upon the California Supreme Court's holding in *Flores,* and to adopt the Court's language, ***"integrally related"*** in determining application of the medical negligence statute of limitations, Code of Civil Procedure section 340.5. Pre-*Flores* cases regarding the meaning of professional negligence for purposes of the applicable statute of limitations (Section 340.5) no longer govern, thereby creating a major shift from prior precedent and a new beginning on the characterization of claims against healthcare providers in future cases.

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