



LEGAL UPDATES

Minnesota Court of Appeals Confirms Immunity from Financial Liability for Guardians

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The Minnesota Court of Appeals ruled that, under Minnesota law, guardians are immune from liability for negligently performing their duty to provide care for a person subject to guardianship. The opinion continues the strong protections from liability in place for those who serve as court-appointed guardians in Minnesota.

The Opinion

In *Zika v. Elder Care of Minnesota*, (Minn. Ct. App. Aug. 22, 2022), the Personal Representative of the Estate sued the decedent's guardian, alleging that the guardian had negligently performed her duties, and sought monetary damages. In 2012, the decedent had moved to an assisted living facility after she was diagnosed with Alzheimer's. The guardian was appointed in 2013 to make decisions about the decedent's care, comfort, and maintenance. In 2016, the decedent was sexually assaulted in her room by an employee of the assisted living facility. Although the guardian was immediately informed of the assault, she failed to inform the decedent's family members and did not provide trauma care to the decedent after the assault.

The district court dismissed the claims against the guardian, and the court of appeals affirmed, concluding that guardians are immune from liability under Minnesota law for negligently performing their duty to provide care, comfort, and maintenance needs for the person subject to guardianship. In making this determination, the Court of Appeals relied on the plain language of Minnesota Statute Section 524.5-313(c)(2), which specifically provides that "[f]ailure to satisfy the needs and requirements of this clause shall be grounds for removal of a private guardian, **but the guardian shall have no personal or monetary liability.**"

The Court of Appeals also reasoned that the legislative history of the guardianship statutes confirms that the legislature intended for a guardian's immunity to be broad. For example, the Court of Appeals pointed to a different statute — Minnesota Statute Section 524.5-315 — which provides a guardian with immunity from liability related to wrongful acts of *third persons* if the guardian exercised reasonable care in choosing the third person to provide care. The *Zika* court

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explained that the immunity granted in Section 524.5-315 is an additional, specific immunity granted to guardians and not a limitation on or clarification of the protections granted to guardians under Section 524.5-313(c)(2).

As noted above, one of the key issues in the *Zika* case was whether the guardian could be held liable for her failure to notify the decedent's family about the sexual assault. More specifically, the decedent's son testified that, had the family known about the assault, they would have sought trauma treatment for the decedent and would have found her a different long-term care facility. Although the Court of Appeals held that the guardian was immune from liability for failure to notify decedent's family about the assault, it is worth noting that a 2020 legislative change now requires guardians to communicate with all interested persons concerning, among other things, significant health or unexpected health changes or a medical condition requiring treatment or hospitalization. See Minnesota Statutes Section 524.5-316(d).

Key Takeaways

Guardians, interested persons, and persons subject to guardianship should take note of the decisions in *Zika v. Elder Care of Minnesota*, as the case provides several important takeaways:

1. Minnesota law provides immunity from financial liability for guardians.
2. The laws protecting guardians from immunity are in place due, in part, to the need for court-appointed guardians in Minnesota and the hesitancy persons nominated as guardians would have to serve if doing so came with risk of significant financial liability. Although guardians cannot be held financially liable for their negligence as guardian under the Minnesota law, they may still be removed.
3. Guardians today have a duty to communicate with interested persons. Those requirements are fully set forth in Minnesota Statutes Section 524.5-316(d).

Our Trusts & Estates team is experienced in representing guardians and conservators. If you have questions, please contact us to see if we can assist you.