

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FILED
March 21, 2018
Carla Bender
4th District Appellate
Court, IL

2018 IL App (4th) 170420-U
NO. 4-17-0420

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

JACQUELINE A. BULGER,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
LORI SPRINGMAN, Special Representative of)	No. 11L109
KEVIN L. SPRINGMAN, Deceased,)	
Defendant-Appellee.)	Honorable
)	John P. Schmidt,
)	Judge Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Holder White and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in denying plaintiff’s motion for judgment pursuant to section 2-2301 of the Code of Civil Procedure (735 ILCS 5/2-2301 (West 2016)).

¶ 2 Plaintiff, Jacqueline A. Bulger, appeals the trial court’s denial of her motion for entry of a judgment against defendant, Lori Springman, special representative of Kevin L. Springman, deceased, pursuant to section 2-2301 of the Code of Civil Procedure (735 ILCS 5/2-2301 (West 2016)). We affirm.

¶ 3 I. BACKGROUND

¶ 4 In November 2009, plaintiff and Kevin were involved in an automobile accident. At the time of the accident, Kevin was an employee of the Illinois Department of Corrections and was driving a state-owned vehicle. In November 2010, plaintiff filed a personal injury action against Kevin, alleging his negligent operation of a motor vehicle caused the accident. Kevin,

however, died while the matter was pending and, in July 2013, defendant was appointed as a special representative to defend the cause the action.

¶ 5 During the underlying proceedings, both Kevin and defendant were represented by the Illinois Attorney General's office. Further, on appeal, both parties agree that Kevin was indemnified by the State relative to plaintiff's personal injury claim pursuant to section 405-105(11) of the Civil Administrative Code of Illinois (20 ILCS 405/405-105(11) (West 2016)) and not by the State Employee Indemnification Act (5 ILCS 350/0.01 to 4 (West 2016)).

¶ 6 In October 2016, a "Settlement Agreement and General Release" was entered into and executed by plaintiff, plaintiff's attorney, and a representative of the acting director of Illinois Department of Central Management Services (CMS), signing "[o]n behalf of [d]efendant." Under the agreement, plaintiff was to receive \$900,000 "payable from appropriations made to the Auto Liability Fund administered by [CMS]." The agreement also provided as follows: "It is expressly agreed that neither the Special Representative in her individual capacity nor the estate of Kevin Springman shall be responsible for payment of any sum under this Agreement."

¶ 7 In February and March 2017, plaintiff filed identical motions for judgment pursuant to section 2-2301 of the Code of Civil Procedure (Code) (735 ILCS 5/2-2301 (West 2016)). She alleged that section required a settling defendant to pay "all sums due" under a settlement agreement within 30 days of the plaintiff's tender of an "executed release and all applicable documents" and further provided for the entry of a judgment against a settling defendant where timely payment was not made. Plaintiff maintained that, in her case, there had been no timely payment of the \$900,000 settlement amount and she asked the trial court to enter a judgment against defendant in that amount plus costs and "interest calculated from October 18, 2016." Plaintiff attached the settlement agreement and release to her filings.

¶ 8 In April 2017, the trial court granted plaintiff’s motion and entered judgment against defendant for \$900,000 plus interest. Defendant immediately filed a motion to reconsider the court’s decision on the basis that section 2-2301 did not apply to the State of Illinois. In May 2017, the court entered its ruling on the motion to reconsider, agreeing that its previous grant of plaintiff’s motion for judgment was made in error. The court vacated its prior ruling and denied plaintiff’s motion. It specifically held as follows:

“First, the settlement funds are to be paid out of the State of Illinois fund. Second, the Settlement Agreement and General Release relieves the Defendants and the State of Illinois from any and all claims resulting from the traffic accident. It is clear from the settlement agreement it is the state paying the judgment. [Section 2-2301(g)(1)] specifically and unequivocally exempts the State of Illinois from the remedy of this statute.”

¶ 9 This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Plaintiff appeals, arguing the trial court erred in denying her motion for judgment. She contends the plain language of section 2-2301 covers defendant as a “settling defendant” and that there is no statutory exception which would apply to exclude the parties or their settlement agreement from coverage. Additionally, in her brief, plaintiff acknowledges that the State ultimately tendered payment of the agreed-upon \$900,000 in August 2017. Plaintiff maintains, however, that she is still owed \$45,000 in interest from defendant due to a 10-month delay in payment.

¶ 12 Here, the issue presented on appeal is one of statutory construction. When presented with such issues, the “primary objective is to ascertain and give effect to the intent of the

legislature.” *Better Government Ass’n v. Illinois High School Ass’n*, 2017 IL 121124, ¶ 22, 89 N.E.3d 376. “The most reliable indicator of legislative intent is the statutory language, given its plain and ordinary meaning.” *Id.* “Where the language of the statute is clear and unambiguous, its meaning is plain, and we must apply it as written without resort to extrinsic aids to statutory construction.” *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24, 77 N.E.3d 625. Further, issues of statutory interpretation present questions of law and are subject to *de novo* review. *Bueker v. Madison County*, 2016 IL 120024, ¶ 13, 72 N.E.3d 269.

¶ 13 The portions of section 2-2301 of the Code (735 ILCS 5/2-2301 (West 2016)) that are relevant to this appeal provide as follows:

 “(d) A settling defendant shall pay all sums due to the plaintiff within 30 days of tender by the plaintiff of the executed release and all applicable documents ***.

 (e) If, after a hearing, the court having jurisdiction over the parties finds that timely payment has not been made by a defendant pursuant to subsection (d) of this Section, judgment shall be entered against that defendant for the amount set forth in the executed release, plus costs incurred in obtaining the judgment and interest *** calculated from the date of the tender by the plaintiff under subsection (d) of this Section.

 (g) This Section applies to all personal injury, property damage, wrongful death, and tort actions involving a claim for money damages, except as otherwise agreed by the parties. This Section does not apply to:

- (1) the State of Illinois;
- (2) any State agency, board, or Commission, as defined in Section 1-7 of the Illinois State Auditing Act [(30 ILCS 5/1-7 (West 2016))];
- (3) any State officer or employee sued in his or her official capacity;
- (4) any person or entity that is being represented by the Attorney General and provided indemnification by the State pursuant to the State Employee Indemnification Act;
- (5) any municipality or unit of local government as defined under Article VII of the Illinois Constitution; and
- (6) class action lawsuits.”

¶ 14 In this case, we find the plain language of section 2-2301 required the trial court to deny plaintiff’s motion for judgment. Although plaintiff sought a judgment against defendant pursuant to section 2-2301, the record here fails to show defendant was a “settling defendant” subject to the provisions of the statute.

¶ 15 As discussed, subsection (d) of section 2-2301 requires a settling defendant to pay “all sums due to the plaintiff within 30 days of” the plaintiff’s tender of an executed release and other required documents. 735 ILCS 5/2-2301(d) (West 2016). Subsection (e) then provides that a judgment shall be entered against a defendant “[i]f, after a hearing, the court *** finds that timely payment has not been made by a defendant pursuant to subsection (d),” *i.e.*, within 30 days of the plaintiff’s tender of executed documents. 735 ILCS 5/2-2301(e) (West 2016). Here, however, defendant was not responsible for making any payment to plaintiff under the settlement agreement and, therefore, she cannot be held responsible for any untimely payment. The settle-

