

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
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Granted Appeal Summary

Case

JOHN A. BLAZER v. ABOUT WOMEN, OBGYN, PC, ET AL.
(Record Number 180476)

From

The Circuit Court of Prince William County; A. Swersky, Judge.

Counsel

Danny M. Howell, Robert Jackson Martin (The Law Offices of Danny M. Howell, PLLC) for appellant.

Paige Levy Smith, Madelaine Kramer (Sands Anderson PC) for appellee.

Assignments of Error

1. The Circuit Court erred as a matter of law in awarding sanctions under Va. Code Section 8.01-271 where, *after a nonsuit* and in the absence of evidence, the Court found that no conceivable basis existed to believe that an expert designation was, to the best of the attorney's "knowledge, information and belief, formed after reasonable inquiry", well grounded in fact.
2. The Circuit Court erred as a matter of law in awarding sanctions under Va. Code Section 8.01-271.1 where, *after a nonsuit* and in the absence of any evidence, the Court found that the expert designation signed by the attorney had no chance of success under existing law or under a reasonable extension of existing law.
3. The Circuit Court erred as a matter of law in shifting the burden to *the attorney* targeted by the sanctions to show *after a nonsuit* that an expert designation was not signed in violation of Va. Code Section 8.01-271.1, rather than keeping the burden on the proponent of the sanctions to show that the attorney filed a pleading he *knew to be unfounded in fact* and that had *no chance of success under existing law* or a reasonable extension thereof.
4. The Circuit Court erred as a matter of law in applying the wrong standard of proof under Va. Code § 8.01-271.1, where instead of requiring a showing that the attorney signed a document he knew to be unfounded in fact or that had no chance of success under existing law or a reasonable extension thereof, the Court simply determined in essence that an expert designation failed to

show that the expert would, in the exercise of the discretion of a trial court, be permitted to testify as to the standard of care.

5. The Circuit Court erred as a matter of law in finding, as its sole basis for awarding sanctions for the signing of an expert designation that *as a matter of law*, the practice of gynecology could never constitute a “related field of medicine” under Va. Code § 8.01-581.20(A).

6. The Circuit Court erred as a matter of law in finding that the proffered expert witness, without having been deposed or subjected to *voir dire*, would never in the exercise of the trial court’s discretion be found qualified to testify.

7. The Circuit Court erred as a matter of law in finding that the witness would never in the exercise of the trial court’s discretion be found qualified to testify, without any admissible evidence as to what the expert’s practice actually was.