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### Summary of Saylor v. Arcotta, 126 Nev. Adv. Op. 9

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## TORTS- EQUITABLE INDEMNITY AND CONTRIBUTION CLAIMS

### Summary

The Court held that the district court erred in granting summary judgment and dismissing appellant's equitable indemnity and contribution claims. Equitable indemnity and contribution claims are governed by statutes of limitation, separate from the statute applicable to the underlying tort. Accordingly, the Court reversed the grant of summary judgment and remanded to the district court for further proceedings.

### Factual and Procedural History

Two weeks after a taxicab accident, the passenger suffered a heart attack and died during surgery. The passenger's heirs and successors in interest brought suit against appellants, the taxicab driver and the taxicab company. During discovery, appellants learned that medical negligence might have caused the passenger's death. Thereafter, appellants filed a third-party complaint against respondents, the passenger's physicians, for equitable indemnity and contribution. Respondents motioned for summary judgment, arguing that appellant's claims were time barred under the statute of limitations for medical malpractice claims.<sup>2</sup> The district court granted summary judgment and dismissed appellant's third-party complaint. On appeal, appellants challenged the district court's grant of summary judgment.

### Discussion

The Court addressed a question of first impression: whether equitable indemnity claims are governed by the statute of limitations applicable to the underlying tort? The Court noted that other jurisdictions recognize equitable indemnity as a separate cause of action, subject to a separate limitations period from the underlying tort.<sup>3</sup> Thus, appellant's equitable indemnity claim is subject to the limitations period for implied contract claims,<sup>4</sup> rather than the limitations period for medical malpractice claims.<sup>5</sup> Similarly, the Court noted that a separate statute of limitation governs contribution claims.<sup>6</sup> Because neither applicable statute had begun to run, the district court erred in dismissing appellant's equitable indemnity and contribution claims.

### Conclusion

The Court reversed and remanded because the district court erred in granting summary judgment and dismissing appellant's equitable indemnity and contribution claims as time-barred.

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<sup>1</sup> By Karlee Phelps

<sup>2</sup> NEV. REV. STAT. § 41A.097 (2007).

<sup>3</sup> *Reggio v. E.T.I.*, 15 So. 3d 951, 955 (La. 2008); Maurice T. Brunner, Annotation, *What Statute of Limitations Covers Action For Indemnity*, 57 A.L.R. 3d 833 § 2(a) (1974).

<sup>4</sup> NEV. REV. STAT. § 11.190(2)(c) (2007). The Court reasoned that because equitable indemnity claims are based on a theory of implied contract, the statute of limitations for implied contracts should apply.

<sup>5</sup> *Id.* § 41A.097 (2007).

<sup>6</sup> *Id.* § 12.285 (2007).