



Henke v. Hospital Development of West Phoenix, Inc. (2025)

Key Issue: Standards of proof for emergency room medical malpractice.

This case centered on a patient, Margarita Henke, who visited an urgent care and later a hospital with symptoms of a life-threatening heart infection (endocarditis). The legal dispute focused on **A.R.S. § 12-572**, a statute that requires plaintiffs to prove medical malpractice in an "emergency department" by "clear and convincing evidence" rather than the standard "more likely than not" threshold.

The litigation examined whether this higher standard applied to the specific care Henke received and whether the statute itself conflicted with the Arizona Constitution. Building on the logic in *Roebuck*, the court looked at how the state can regulate—but not eliminate—the right to sue for personal injuries.

The Court upheld the application of the higher "clear and convincing" evidentiary standard for emergency room settings. The reasoning is that the high-pressure, fast-paced nature of emergency medicine justifies a higher bar for recovery to prevent "defensive medicine," provided the right to sue isn't totally taken away.

Application: This case affirms that medical malpractice claims in Arizona are "tiered." If you are injured in a standard doctor's visit, the standard of proof is lower. If the injury occurs in a qualifying emergency room setting, your attorney must meet a much higher "clear and convincing" standard, making these some of the most difficult personal injury cases to win in the state.