

No. 25–1300

In the Supreme Court of the United States

JANE DOE,

Petitioner,

v.

ROBERT F. KENNEDY, JR.,

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

SUPPLEMENTAL BRIEF OF PETITIONER

Jane Doe

proselegal35@outlook.com

Pro se Petitioner

SEPTEMBER MMXXVI

United States Commercial Printing Company • www.uscpc.us • (202) 866-8558

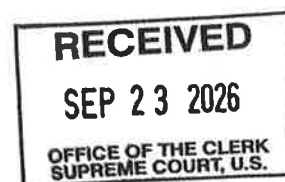


TABLE OF CONTENTS

Introduction	1
Discussion	1
I. The Wyoming Supreme Court Affirmed Summary Judgment in the Legal Malpractice Case Against Richard Gage.	1
II. The Massachusetts Supreme Judicial Court Denied Further Appellate Review in the Legal Malpractice Case Involving Meredith Daniels and Conway Homer.....	6
Conclusion	9
Appendix A	
Memorandum and Order Pursuant to Rule 23.0, Massachusetts Appeals Court, <i>[redaction added]</i> v. <i>Conway Homer, P. C., & another</i> , No. 25–P–727 (Jul. 14, 2026)	Suppl. App. 1
Appendix B	
Opinion, Supreme Court of Wyoming, <i>[redaction added]</i> v. <i>Richard Gage, individually, and Rich- ard Gage, P. C.</i> , No. S–25–0206 (Mar. 5, 2026)	Suppl. App. 8

TABLE OF AUTHORITIES

Cases

<i>Moore v. Lubnau</i> , 855 P. 2d 1245 (Wyo. 1993)	3, 5
--	------

Constitutional Provisions, Statutes, and Rules

S. Ct. R. 15.8	1
Fed. R. Civ. P. 56.....	2
Wyo. R. Civ. P. 56.....	2
Wyo. R. Civ. P. 59.....	5

INTRODUCTION

This Court's Rule 15.8 provides: "Any party may file a supplemental brief at any time while a petition for a writ of certiorari is pending, calling attention to . . . other intervening matter not available at the time of the party's last filing." Petitioner respectfully files this supplemental brief in support of her petition for certiorari. After petitioner filed her petition for a writ of certiorari with this Court on March 9, 2026, the Wyoming Supreme Court affirmed the summary judgment in her legal malpractice case against Richard Gage and others, and the Massachusetts Supreme Judicial Court denied further appellate review in her legal malpractice case involving Meredith Daniels and Conway Homer. These intervening decisions are directly relevant to the questions presented and demonstrate their national importance.

Had the respondent submitted a brief in opposition, petitioner would have addressed these new instances of judicial collusion/legal malpractice in her reply. As no response brief was filed, petitioner addresses both intervening matters pursuant to Rule 15.8. As explained below, these decisions continue the trend—highlighted in petitioner's first question presented and discussed on pages 17–20 of the petition—of lower courts ignoring rules and laws, including their own.

DISCUSSION

I. The Wyoming Supreme Court Affirmed Summary Judgment in the Legal Malpractice Case Against Richard Gage.

Petitioner fired Federal Vaccine Court attorney Richard Gage and then sued him for legal malpractice

after he joined in collusion with United States Court of Federal Claims Special Master Mindy Michaels Roth. They were captured on court records colluding to lie about what actually happened to me (see Appendix E to the petition) and to financially defraud me. In furtherance of protecting Gage, the Wyoming Supreme Court affirmed a highly biased, flagrant, erroneously granted summary judgment.

The Wyoming Supreme Court is the highest court of that State—notably, there is no intermediate court of appeals in the State, so *the* Wyoming Supreme Court also performs that appellate function. Therefore, the legal malpractice case against attorney Richard Gage et al. went to the highest court of that State, where the Wyoming Supreme Court affirmed this unlawful, improper, erroneously granted summary judgment even though the moving party had not met its burden.

They intentionally disregarded Wyoming Rule of Civil Procedure 56, as well as the almost identical Federal Rule of Civil Procedure 56, both of which allow a party to ask for summary judgment when there is *no genuine dispute over any material fact*.

Generally, courts require discovery to be substantially complete before ruling on summary judgment motions. This ensures all relevant facts are available for evaluation. Specific statutory rules vary by jurisdiction but often include provisions that summary judgment cannot be granted if essential facts remain undiscovered. Parties typically file motions after discovery closes or when *no genuine dispute of material fact exists*.

PLEASE TAKE NOTE OF THE FOLLOWING:

There WAS a genuine issue of material fact—I DID NOT agree with ANYTHING, and they should stop their damn lies! My brother’s injury and subsequent death on March 1, 2025, were why I could not file; they capitalized on and exploited his injury/death and my grief to spin it as something that it was not for their own lowbrow motives and actions!

It does not even make sense that I would bring this action against Richard Gage et al., considering the solid evidence of him (from his own mouth!) and Court of Federal Claims Special Master Mindy Michaels Roth colluding on court records, then just suddenly drop my position, while both he and Special Master Roth are the reason why I am here in this Court seeking justice for their collusion in the first place!

It is a well-known fact that *pro se* parties have difficulty obtaining “experts” (the Wyoming Supreme Court even attests to this in *Moore v. Lubnau*, 855 P.2d 1245 (Wyo. 1993)). I did seek experts but received no responses; they also subjected me to a greater burden than the law itself imposes.

Most FATAL of all, the Wyoming Supreme Court still affirmed the summary judgment despite the following:

Richard Gage et al. refused to participate in discovery and refused to answer interrogatories.

Their attorneys perjured themselves by even submitting a motion for summary judgment when they damn well knew (or should have known as attorneys) that their clients refused to cooperate in discovery/interrogatories; further, why did the judges allow this?

Granting this erroneous summary judgment was not only insensitive but extremely cruel, outright

demonic, and an abuse of discretion, as there were other actions that could or should have been taken given the circumstances.

The judge *refused* to grant me leave due to my brother's injury, then death, and my having to lay him to rest, *even though I submitted my brother's obituary to the court proving his March 1, 2025 death*; this was a sufficient showing of excusable neglect or due diligence, as the records show I always pursued my case.

If I had prior knowledge that my brother would be injured and of his subsequent death, perhaps I would have chosen different dates during the scheduling order conference; however, there was NO way I or even they/anyone could have foreseen or predicted this.

The judge *denied* EVERY motion petitioner made, though I was grief-stricken and could barely function, on top of my vaccine-caused MS.

One of their bolder lies, and quite frankly outrageous things to say or do, was to claim to know what I thought.

Those attorneys do not dwell in me, have NEVER in life met me, spoken with me in person or otherwise, nor communicated with me in any form; therefore, how in the world can they tell anyone "what I thought"? They constantly proclaimed "[redaction added] thought" this or that to lay a background for their damn lies. Further, this would have been inadmissible evidence because there is no record evidence (or otherwise) of the crap they said, because it simply did not happen/could not have happened.

I don't know why everyone acts obtuse as to why he was fired when he rightfully earned it as soon as I discovered the collusion via the hearing transcript I ordered; why would anyone with sense keep an attorney

who so brazenly worked against them behind their back?

Though similar, please understand that the circumstances in this case are not the same as those in *Moore*.

There was never an altered scheduling order.

I was never able to secure any expert, period, because of my *pro se* status. The Wyoming Supreme Court acknowledged in *Moore*:

“Ms. Moore also attributes her lack of expert witness to the fact that Wyoming attorneys are reluctant to testify against one another, and we are sensitive to this claim. This hesitancy is not surprising in a bar as small and as cordial as Wyoming’s.” *Moore, supra*.

I never attempted to use or misuse Wyoming Rule of Civil Procedure 59. Asking for time to deal with my brother’s injury (I had been going to his home to help him—remember, I am disabled and need help myself), unexpected death, and to grieve should have been a given, as it was simply the just, proper, commonsense, humane thing to do. If his injury, then sudden death, and having to lay my brother to rest, not being able to function due to grief, are not a sufficient showing of excusable neglect or due diligence, then I do not know what is.

Plaintiff did attest that some or all of the allegations were of such a nature that the standard of care and defendant’s compliance or deviation were within the layperson’s common knowledge, rendering expert testimony unnecessary. My brother was injured right when I was readying my response as such, so that and then his unexpected death knocked me off center. All in all, nothing about the proceedings was fair, right, just, or in line with state or federal laws.

II. The Massachusetts Supreme Judicial Court Denied Further Appellate Review in the Legal Malpractice Case Involving Meredith Daniels and Conway Homer.

The Massachusetts Supreme Judicial Court, in continuing to protect vaccine attorney Meredith Daniels/vaccine law firm Conway Homer, denied my FAR (further appellate review) application on September 15, 2026. The MSJC is the highest state court in Massachusetts.

This involves the first attorney/vaccine firm retained to represent petitioner in her double-injury vaccine case (first hepatitis B—causation, second hepatitis B—aggravation). Conway Homer is a vaccine injury law firm—it assigned my case to Meredith Daniels. I eventually discovered that she had filed my case too late, causing the claim based on the first hepatitis B vaccine—the foundation of my entire case—to miss the statute-of-limitations deadline, despite my having provided the information to her well before the time ran out. She also attempted to browbeat me to cover up her grave error. After I became privy to her deception and lies, she was fired and then sued for her malpractice.

I cannot understate the magnitude of judicial collusion/the bold hypocrisy that is rampant. I will just restate here what the MSJC apparently did not want to talk about, thus its denial of my FAR application:

At issue: blatantly unfair, biased proceedings rife with hypocrisy—

Why is everyone else allowed/granted approval to miss deadlines except plaintiff, who they allege

missed the deadline despite providing solid/valid evidence?

Almost everyone—attorneys and judges—has missed deadlines and/or is protecting those who have. The attorney in the underlying case is being protected for missing the statute-of-limitations deadline by filing my double-injury case too late; their attorney is being protected by the judges because he missed filing deadlines, but the judge(s) granted his “emergency” motion when he was out of time while not having submitted any proof of an actual “emergency” (note that he was also out of time when I consented to the stipulation in February 2024—I informed him then that was the only time I would do that for him).

Then we have this panel of judges at the Appeals Court who extended and then waived altogether their 130-day deadline, BUT—it’s a problem for me to receive these same courtesies/rights/privileges, etc., when I’ve submitted medical proof as to why tolling should be extended to me? Also, this panel chose to overlook the fact that it was not just a “7-day inpatient stay”—what was done to me daily for those seven days and the long-lasting aftereffects matter more than those seven days (during a global pandemic at that!). Please see my briefs in the Appeals Court, which explain this and why tolling should have been granted. There was nothing “futile” about my case/filings, unlike approving “emergency” motions filed past the literal midnight hour. This panel did not even comment on the submitted article by some of their peers addressing this. And why would I have to argue for my case to be evaluated in the way I had already presented it? There are concerns of multiple privacy and safety violations because of information that has

nothing to do with defendants' malpractice, and I will not let anyone take credit for my work.

* * *

These two decisions provide further examples of judicial collusion and the lengths to which the Wyoming Supreme Court and the Massachusetts Supreme Judicial Court went to shield the defendants from accountability for their own willful, negligent actions, including Gage's collusion with Special Master Mindy Michaels Roth.

At a minimum (I deserve more!), Gage should return to me EVERY cent he was paid from the VICP to represent me, since colluding with a judge to defraud your client is NEVER part of the plan in proper representation. Any bribe money he received for his corrupt actions should be handed to me as well (why else would he do what he did?). Likewise, the defendants in the Massachusetts case should return to me EVERY cent they were paid from the VICP to represent me, since missing the statute-of-limitations deadline and then trying to cover it up is NEVER part of the plan in proper representation. Any bribe money they received should be handed to me as well.

These intervening decisions reinforce the need for review in the interest of justice: to avoid confusion and additional bad judgments resulting from the improper, biased decision below; to prevent the need for relitigation should others cite that unjust, erroneous decision; and to hold accountable all bad actors in the state and federal courts related to this petition for their willful, disturbing actions. Petitioner also requests all fees and costs for having to bring these actions.

CONCLUSION

This Court should grant certiorari.

Respectfully submitted.

Jane Doe
proselegal35@outlook.com

SEPTEMBER 2026

Pro Se Petitioner

Suppl. App. 1

Appendix A

[Filed: Jul. 14, 2026]

NOTICE: Summary decisions issued by the Appeals Court pursuant to M. A. C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

25-P-727

[redaction added]

vs.

CONWAY HOMER, P. C., & another.¹

MEMORANDUM AND ORDER PURSUANT TO
RULE 23.0

This appeal stems from a legal malpractice action in the Superior Court. The plaintiff, [redaction added], appeals from the order denying her postjudgment motion for leave to file a second amended complaint against the defendants, Conway Homer, P. C.,

¹ Meredith Daniels.

Suppl. App. 2

and Meredith Daniels (together, Conway Homer). On appeal, [redaction added] argues that the judge (1) erred by failing to apply the doctrine of equitable tolling, and (2) abused his discretion in allowing Conway Homer's motion to extend the deadline to respond to [redaction added]'s motion to amend. We affirm.

Background. The following facts are not disputed. [redaction added] hired Conway Homer in 2012 to pursue her claims that she suffered personal injuries due to a series of vaccinations. She terminated the relationship with Conway Homer in October of 2018 based on her determination that Conway Homer had negligently failed to file her lawsuit within the applicable statute of limitations. More than five years later, on December 27, 2023, [redaction added] filed this action in the Superior Court alleging legal malpractice, violations of G. L. c. 93A, and negligent infliction of emotional distress; she filed an amended complaint on January 17, 2024 (first amended complaint), in which she added a claim for defamation of character.

On May 16, 2024, Conway Homer responded to the first amended complaint by moving to dismiss all claims as time barred. See G. L. c. 260, §4 ("Actions of . . . tort for malpractice, . . . against attorneys . . . shall be commenced only within three years next after the cause of action accrues"). [redaction added] opposed dismissal, claiming that the doctrine of equitable estoppel applied to toll the statute of limitations. After a hearing on September 12, 2024, a judge (first judge) allowed Conway Homer's motion, and a judgment of dismissal entered on September 17, 2024. In a written order, the first judge found that [redaction added] knew of Conway Homer's alleged misconduct

Suppl. App. 3

on October 22, 2018, at the latest, and thus, because [redaction added] filed the present lawsuit over five years later, in December of 2023, the first judge ruled that her claims were time barred. The first judge rejected [redaction added]'s argument that the statute of limitations should be equitably tolled because of health issues that "deprived her of 'mental, physical and emotional bandwidth' to timely file" the complaint.

On October 18, 2024, [redaction added] filed a motion for leave to file a second amended complaint pursuant to Mass. R. Civ. P. 15 (a), 365 Mass. 761 (1974).² In the motion, [redaction added] asserted that she had "recalled new evidence related to [her] claims" that was "relevant to the Court's furtherance of justice regarding the doctrine of equitable tolling." The proposed second amended complaint, which was attached to the motion, detailed events including changes in [redaction added]'s health starting in December of 2019 which she alleged prevented her from bringing her claims. A second judge denied the motion without prejudice to refile in compliance with Rules 9A and 9C of the Rules of the Superior Court (2024) (rules 9A and 9C). On November 20, 2024, [redaction added] refiled her motion and Conway Homer requested, by emergency motion and without following rule 9A, six additional days beyond the time standards to oppose [redaction added]'s motion. Conway Homer's motion was allowed.

Following a hearing on December 17, 2024, the second judge denied [redaction added]'s motion to amend,

² [Redaction added] did not seek review of the allowance of the motion to dismiss or the judgment of dismissal.

Suppl. App. 4

noting that despite its title, in substance, the motion [redaction added] had filed was a “motion to reconsider the ruling of the [first judge] dismissing the action.” Assessing the motion as such, the second judge determined that [redaction added] had failed to demonstrate her entitlement to equitable tolling and denied the motion.³ On January 8, 2025, [redaction added] filed a notice of appeal from the denial of her motion for leave to file a second amended complaint.

Discussion. 1. Ruling on [redaction added]’s motion to file second amended complaint. It is a “long-standing principle that judges have the flexibility to decide a motion based on its substance, rather than its title.” Care & Protection of Rashida, 488 Mass. 217, 233 (2021), S. C., 489 Mass. 128 (2022). Because the new material in [redaction added]’s proposed second amended complaint focused solely on the previously advanced argument of equitable tolling, we discern no abuse of discretion in the second judge’s decision to analyze [redaction added]’s motion to file a second amended complaint as a motion for reconsideration of the first judge’s ruling on Conway Homer’s motion to dismiss [redaction added]’s complaint.

We are likewise satisfied that the judge acted within his discretion when he denied [redaction added]’s motion to reconsider. See Peterson v. Hopson, 306 Mass. 597, 603 (1940) (“A judge should hesitate to undo his own work. Still more should he hesitate to undo the work of another judge” [citation

³ Further, the judge concluded that [redaction added]’s proposed second amended complaint was futile as a matter of law and noted that even had he evaluated her motion as it was captioned -- i. e., as a request to amend her complaint -- he would have denied it.

Suppl. App. 5

omitted]). A cause of action for legal malpractice accrues when the plaintiff knows or reasonably should know that she has sustained appreciable harm because of a defendant's conduct. See Williams v. Ely, 423 Mass. 467, 473 (1996). Here, it is undisputed that [redaction added]'s claim for legal malpractice accrued no later than October 22, 2018. The statute of limitations for negligence actions is three years, and thus, [redaction added] was required to file her complaint no later than October 22, 2021. See G. L. c. 260, §4. [redaction added] filed her complaint on December 27, 2023, more than two years later, and thus, unless saved by the application of equitable tolling, the complaint was time barred.⁴

In her proposed second amended complaint, [redaction added] claimed that equitable tolling applied because she was hospitalized from December 19, to 25, 2019, and thereafter, self-isolated in her home, preventing her from filing the lawsuit. [redaction added] further alleged that, starting during this period, she began to suffer from "deep depression, despair and paranoia." She did not, however, demonstrate to the second judge's satisfaction that her medical and mental health conditions rendered her

⁴ The Supreme Judicial Court tolled all civil statutes of limitations from March 17, 2020, through June 30, 2020, due to the COVID-19 pandemic. See Second Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic, No. OE-144, par. 12 (May 26, 2020). See also Third Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic, No. OE-144, par. 13 (June 24, 2020). These orders, however, provide [redaction added] with, at most, 106 additional days to complete her filing, or, until February 5, 2022.

Suppl. App. 6

“[un]able to engage in rational thought or deliberate decision making sufficient to pursue [her] claim alone or through counsel.” Nunnally v. MacCausland, 996 F.2d 1, 5 (1st Cir. 1993). The second judge found that notwithstanding these new allegations and [redaction added]’s opportunity to argue the motion at a hearing, [redaction added] failed to explain (1) why she did not seek accommodations for her house-bound status to initiate the lawsuit, and (2) why she did not hire an attorney to file the suit for her, and thus failed to show that equitable tolling applied here. After careful review of the record before us, we discern no abuse of discretion nor error of law in the second judge’s decision. The motion was properly denied.

2. Conway Homer’s motion for enlargement of time under rule 9A. Lastly, [redaction added] argues that the judge abused his discretion in allowing Conway Homer’s motion to extend the rule 9A deadline to respond to [redaction added]’s motion for leave to amend her complaint. See Lawrence Sav. Bank v. Garabedian, 49 Mass. App. Ct. 157, 161 (2000). [redaction added] advances no legal argument or case law in support of her argument, and thus, it does not reach the level of appellate argument. See Mass. R. A. P. 16 (a) (9) (A), as appearing in 481 Mass. 1628 (2019). We do not consider it.⁵

⁵ Even if we did consider it, we would discern no abuse of discretion as the motion that Conway Homer filed required resolution before the time limits set forth in rule 9A. In any event, [redaction added]’s motion for leave to amend remained futile because the statute of limitations had run.

Suppl. App. 7

Order denying motion for leave to
file second amended complaint af-
firmed.

By the Court (Henry, Hand & Al-
len, JJ.⁶),

/s/ Paul Tuttle
Clerk

Entered: Jul. 14, 2026.

⁶ The panelists are listed in order of seniority.

Suppl. App. 8

Appendix B

[Filed: Mar. 5, 2026]

IN THE SUPREME COURT, STATE OF WYOMING

2026 WY 30

OCTOBER TERM, A. D. 2025

Mar. 5, 2026

[redaction added],	)	
Appellant	)	
(Plaintiff),	)	
v.	)	
RICHARD GAGE, individually,	)	S-25-0206
and	)	
RICHARD GAGE, P. C.	)	
Appellees	)	
(Defendants).	)	

Appeal from the District Court of Laramie County

The Honorable Catherine R. Rogers, Judge

Representing Appellant:

[redaction added], pro se.

Representing Appellee:

Jordan M. Haack and Anna Reeves Olson, Long
Reimer Winegar, LLP, Casper, Wyoming.

*Before BOOMGAARDEN, C. J., and GRAY,
FENN, JAROSH, and HILL, JJ.*

NOTICE: This opinion is subject to formal revision before publication in Pacific Reporter Third. Readers are requested to notify the Clerk of the Supreme Court, Supreme Court Building, Cheyenne, Wyoming 82002, of any typographical or other formal errors so that correction may be made before final publication in the permanent volume.

HILL, Justice.

[¶ 1] [redaction added] sued Richard Gage and Richard Gage, P. C. (collectively Mr. Gage) for legal malpractice. Ms. [redaction added] failed to designate a legal malpractice expert within the time allowed by the district court's scheduling order, and the district court granted Mr. Gage's motion for summary judgment. Ms. [redaction added] appeals. Finding the district court did not err, we affirm.

ISSUES

[¶ 2] Ms. [redaction added] raises nine issues, which we rephrase and condense into three:¹

- 1) Did the district court abuse its discretion when it denied Ms. [redaction added]'s motion to extend certain deadlines?

¹ These three issues are dispositive but also represent the issues supported by cogent argument. Ms. [redaction added]'s other issues are not generally supported by cogent argument. We consistently decline to consider issues not supported by cogent argument or pertinent authority, whether the brief is filed

- 2) Did the district court err when it granted summary judgment to Mr. Gage?
- 3) Should this Court consider Ms. [redaction added]'s arguments related to privacy act violations?

FACTS

[¶ 3] While serving in the military, Ms. [redaction added] received two doses of the hepatitis A/B vaccine. She received the first dose in April of 2010 and the second dose in February of 2011. Within days of the second dose, Ms. [redaction added] started to suffer significant symptoms from multiple sclerosis (MS). Ms. [redaction added] asserted the vaccines caused and/or aggravated her MS and sought to secure compensation for her injuries.

[¶ 4] Ms. [redaction added] hired an attorney to file a petition for compensation under the National Vaccine Injury Compensation Program. Ms. [redaction added] believed her attorney missed the statute of limitations to include a claim for the 2010 vaccine and only included a claim for the 2011 vaccination. Ms. [redaction added], therefore, terminated her relationship with her previous attorney and, in 2018, hired Mr. Gage to hopefully correct the perceived problem. Ms. [redaction added] appeared to want Mr. Gage to overcome the statute of limitations and add the 2010 vaccination to her petition.

[¶ 5] Mr. Gage refiled Ms. [redaction added]'s petition and proceeded with the case. In 2021, Ms.

by a pro se litigant or filed by counsel. *Adams v. Gallegos*, 2025 WY 71, ¶ 13, 571 P. 3d 337, 339 (Wyo. 2025) (citation omitted).

Suppl. App. 11

[redaction added] received an entitlement hearing on her refiled petition. However, in 2022, while her vaccination case was pending, Ms. [redaction added] terminated Mr. Gage and proceeded with her vaccination case, pro se.²

[¶6] On January 11, 2024, Ms. [redaction added] filed a complaint against Mr. Gage. In her complaint, Ms. [redaction added] asserted Mr. Gage did not include the 2010 vaccination when he refiled her petition. Ms. [redaction added] alleged her vaccination case was a “double injury” case and she should have a claim for both the 2010 vaccination and the 2011 vaccination. She, therefore, asserted Mr. Gage committed malpractice by failing to adhere to the ethical standards applicable to attorneys that typically handle these types of cases. Ms. [redaction added] also asserted Mr. Gage consciously chose to commit malpractice and colluded with the judge assigned to her vaccination case to bar her from double recovery. Her complaint contained two causes of action, negligence/malpractice and negligent infliction of emotional distress. Mr. Gage filed a motion to dismiss, and the district court dismissed the negligent infliction of emotional distress claim leaving only the negligence/malpractice claim.

[¶7] The district court entered a scheduling order which included a date for a jury trial. The order set a January 15, 2025 deadline for Ms. [redaction added] to designate expert witnesses. Ms. [redaction added]

² In July of 2023, the Court of Federal Claims determined Ms. [redaction added] had met her burden of proving the 2011 vaccine “significantly aggravated her then-asymptomatic multiple sclerosis” and her case could proceed to the damages phase.

Suppl. App. 12

did not designate any expert witnesses by this date. On January 29, 2025, Ms. [redaction added] asked for an extension of the deadline to designate expert witnesses because her brother had been injured on January 13, 2025, two days before the deadline. Later, on March 31, 2025, Ms. [redaction added] also filed a motion to, in substance, extend the discovery cut-off deadline. The court denied her requests.

[¶ 8] The scheduling order set Mr. Gage’s deadline to designate experts as February 18, 2025. Mr. Gage designated himself as an expert on February 17, 2018. In the designation, Mr. Gage certified he complied with the standard of care for attorneys practicing in Wyoming, did not breach the standard of care, and his work did not injure Ms. [redaction added]. Mr. Gage then filed a motion for summary judgment because Ms. [redaction added] failed to designate an expert witness related to the standard of care and causation.

[¶ 9] After a telephone hearing, the district court granted Mr. Gage’s motion for summary judgment. Ms. [redaction added] appeals to this Court.

ISSUE 1

Did the district court abuse its discretion when it denied Ms. [redaction added]’s motion to extend certain deadlines?

STANDARD OF REVIEW

[¶ 10] We review district court decisions denying motions for additional time for an abuse of discretion. *Jacobson v. Cobbs*, 2007 WY 99, ¶ 10, 160 P. 3d 654, 657 (Wyo. 2007). “Judicial discretion is a composite of many things, among which are conclusions drawn

Suppl. App. 13

from objective criteria; it means exercising sound judgment with regard to what is right under the circumstances and without doing so arbitrarily or capriciously.” *Hale v. City of Laramie*, 2025 WY 133, ¶ 19, 580 P. 3d 516, 520 (Wyo. 2025) (quoting *Cornell v. McCartney*, 2025 WY 97, ¶ 15, 575 P. 3d 349, 353 (Wyo. 2025)). “A court abuses its discretion if it acts ‘in a manner which exceeds the bounds of reason under the circumstances.’” *Id.* The question for this Court to determine on appeal is “whether the trial court could reasonably conclude as it did.” *Hutton v. Dykes*, 2025 WY 94, ¶ 16, 575 P. 3d 334, 341 (Wyo. 2025) (quoting *Holloway v. Hidden Creek Outfitters, LLC*, 2025 WY 59, ¶ 30, 569 P. 3d 756, 763 (Wyo. 2025)).

DISCUSSION

[¶ 11] Wyoming Rule of Civil Procedure (W. R. C. P.) 6(b)(1)(A) allows a district court to extend a party’s time to meet deadlines. The rule provides:

(b) Extending Time.

(1) *In General.* When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court, or a commissioner thereof, may for good cause and in its discretion:

(A) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(B) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect[.]

W. R. C. P. 6(b)(1). Accordingly, a district court may extend a deadline for good cause if the request for the extension is made before the deadline expires. If the request for an extension is made after the original deadline has passed, the court must also determine whether the failure to meet the deadline is the result of excusable neglect. Ms. [redaction added] filed her request for extension of time on January 29, 2025, fourteen days after the designation was due. Thus, she had to demonstrate both good cause and excusable neglect.

[¶12] When considering “good cause” under Rule 6, the United States Court of Appeals for the Tenth Circuit has explained good cause comes into play in situations in which there is no fault and the need for an extension is usually occasioned by something that is not within the control of the movant. *Utah Republican Party v. Herbert*, 678 F. App’x 697, 700–01 (10th Cir. 2017) (citing *Bishop v. Corsentino*, 371 F. 3d 1203, 1207 (10th Cir. 2004) (interpreting good cause for an extension of time to appeal under Fed. R.App. P. 4(a)(5)). “It requires the moving party to show the deadline ‘cannot be met despite the movant’s diligent efforts.’” *Id.* (quoting *Gorsuch, Ltd., B. C. v. Wells Fargo Nat’l Bank Ass’n*, 771 F. 3d 1230, 1240 (10th Cir. 2014) (interpreting good cause to modify a scheduling order under Fed. R. Civ. P. 16(b)(4)).

[¶13] “This Court has defined excusable neglect as being that behavior which might be the act of a

reasonably prudent person under the circumstances.” *Weber v. McCoy*, 950 P. 2d 548, 553 (Wyo. 1997) (citing *Whitney v. McDonough*, 892 P. 2d 791, 794 (Wyo.1995)). We have further explained, “[e]xcusable neglect is measured on a strict standard to take care of genuine emergency conditions, such as death, sickness, undue delay in the mails, . . . and other situations where such behavior might be the act of a reasonably prudent person under the circumstances.” *RDG Oil & Gas, LLC v. Jayne Morton Living Tr.*, 2014 WY 102, ¶ 14, 331 P. 3d 1199, 1202 (Wyo. 2014) (quoting *Crossan v. Irrigation Development Corp.*, 598 P. 2d 812, 813 (Wyo.1979)). “Excusable neglect has traditionally been found where a party acts in a reasonably prudent manner, but an outside force creates an undue delay, resulting in an untimely filing.” *Chevron U. S. A., Inc. v. Dep’t of Revenue*, 2007 WY 62, ¶ 9, 155 P. 3d 1041, 1043 (Wyo. 2007).

[¶ 14] Ms. [redaction added]’s request for additional time to designate experts detailed that two days before her designation was due, her brother had an accident and broke his ribs, and she had to care for him. She also stated because she is pro se she was having a difficult time finding an expert. Her request did not detail any of her efforts to find an expert. After reviewing the motion, response, and the file, the district court denied the extension. The district court provided no particular reasoning for the denial, but the findings of a trial judge concerning conclusions of law and disposition of the issues are presumptively correct, and a general finding of the trial court carries with it every specific finding supported by the record. *Whitt v. State ex rel. Wright*, 2001 WY 128, ¶ 12, 36

Suppl. App. 16

P. 3d 617, 621; *Bloedow v. Maes-Bloedow*, 2024 WY 115, ¶42, 558 P.3d 576, 589 (Wyo. 2024) (citations omitted). Thus, it can be presumed the district court found Ms. [redaction added] did not show good cause and excusable neglect.

[¶15] Our review of the record shows the district court could reasonably conclude Ms. [redaction added] did not make the required showings of good cause and excusable neglect. Ms. [redaction added] brother's injury occurred two days before her deadline to designate an expert. His injury may have helped explain why Ms. [redaction added] did not ask for the extension until after the deadline, but it did not explain why she could not designate an expert within the timeframe. Ms. [redaction added]'s request provided no details of her attempts to find an expert or any "diligent efforts" to comply with the deadline. Ms. [redaction added] had a reasonable period of time before her brother's injury to find an expert but did not. She did state it was difficult to find an expert because she was pro se but provided no details of her efforts to find one. A pro-se litigant is held to the same standard as any other litigant and must expect and receive the same treatment as if represented by an attorney. *Matter of GP*, 679 P.2d 976, 984 (Wyo. 1984) (citing *Suchta v. O. K. Rubber Welders, Inc.*, 386 P.2d 931, 933 (Wyo. 1963)). Thus, the fact a person is pro se is alone not sufficient to demonstrate good cause or excusable neglect. Without more, it is reasonable for the district court to find a lack of good cause and excusable neglect.

[¶16] The same is true of Ms. [redaction added]'s motion to extend the discovery deadline, which she titled

Suppl. App. 17

as a motion for an extension of time to compel discovery. Again Ms. [redaction added] did not demonstrate good cause and excusable neglect. Ms. [redaction added] did include more detail to show good cause and excusable neglect including the passing of her brother. However, again she did not explain why she could not accomplish discovery or the steps she took as a reasonably prudent person under the circumstances to complete discovery.

[¶ 17] Additionally, the timing of Ms. [redaction added]'s request further contributed to a reasonable finding that her motion should be denied. In particular, Ms. [redaction added] filed her request on March 31, 2025, when discovery requests were to be served by March 3, 2025. By the time Ms. [redaction added] had filed this request for this extension, Mr. Gage had already filed his motion for summary judgment based on Ms. [redaction added]'s failure to designate an expert. Because the district court had already denied her request to extend the deadline to designate an expert witness, as we discuss below, an extension of time to complete discovery would not have aided Ms. [redaction added] in her opposition to summary judgment.

[¶ 18] Accordingly, the district court could reasonably conclude Ms. [redaction added] was not entitled to an extension because she had not shown good cause and excusable neglect. It, therefore, did not abuse its discretion when it denied Ms. [redaction added]'s requests for an extension of her deadlines.

ISSUE 2

Did the district court err when it granted Mr. Gage’s motion for summary judgment?

STANDARD OF REVIEW

[¶ 19] “This court reviews summary judgment decisions de novo, using the same materials and standards as the district court and gives no deference to the district court’s conclusions.” *Hunter v. Universal Precast Concrete, Inc.*, 2025 WY 129, ¶ 19, 581 P. 3d 686, 698 (Wyo. 2025) (citing *Groff v. McKellar Tiedeken & Scoggin, LLC*, 2025 WY 54, ¶ 14, 568 P. 3d 1164, 1167 (Wyo. 2025)). Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Id.* (quoting *Weir v. Expert Training, LLC*, 2022 WY 44, ¶ 15, 507 P. 3d 442, 447 (Wyo. 2022)). We can affirm the district court’s grant of summary decision on any legal grounds provided in the record. *Campbell v. Davidson*, 2023 WY 100, ¶ 18, 537 P. 3d 734, 741 (Wyo. 2023) (quoting *Page v. Meyers*, 2021 WY 73, ¶ 9, 488 P. 3d 923, 926 (Wyo. 2021)).

DISCUSSION

[¶ 20] “Wyoming Rule of Civil Procedure 56 governs summary judgment and imposes obligations on both the movant and the nonmovant.” *Hunter*, ¶ 20, 581 P. 3d at 698–99 (citing *Chesapeake Expl., LLC v. Morton Prod. Co. LLC*, 2025 WY 15, ¶ 29, 562 P. 3d 1286, 1295; *Kaufman v. Rural Health Dev., Inc.*, 2019 WY 62, ¶ 14, 442 P. 3d 303, 307 (Wyo. 2019)). If the

moving party has made a prima facie case showing there is no genuine dispute about any material fact and the movant is entitled to judgment as a matter of law, the burden shifts to the party opposing the motion to present evidence showing that a genuine issue of material fact exists. *Id.*; *Scranton v. Woodhouse*, 2020 WY 63, ¶ 23, 463 P. 3d 785, 790–91 (Wyo. 2020). “A prima facie case has two elements: (1) ‘The establishment of a legally required rebuttable presumption,’ and (2) ‘A party’s production of enough evidence to allow the fact-trier to infer the fact at issue and rule in the party’s favor.’” *Scranton*, ¶ 23, 463 P. 3d at 790 (Wyo. 2020) (quoting *Bear Peak Res., LLC v. Peak Powder River Res., LLC*, 2017 WY 124, ¶ 27, 403 P. 3d 1033, 1044 (Wyo. 2017)) (citation omitted). If the moving party does not have the ultimate burden of persuasion, it meets its burden to establish a prima facie case for summary judgment by showing a lack of evidence on an essential element of the opposing party’s claim. *Id.* (quoting *Gowdy v. Cook*, 2020 WY 3, ¶ 22, 455 P. 3d 1201, 1207 (Wyo. 2020)).

[¶ 21] Mr. Gage sought summary judgment on the basis that Ms. [redaction added] could not establish the elements of her claim. Mr. Gage argued that without an expert, Ms. [redaction added] would be unable to establish the standard of care, that Mr. Gage failed to meet it, or that Mr. Gage caused her harm.

[¶ 22] To succeed on a legal malpractice claim, the plaintiff must prove three elements by a preponderance of the evidence. *Kappes v. Rhodes*, 2024 WY 43, ¶ 18, 547 P. 3d 298, 305 (Wyo. 2024) (citing *Tozzi v. Moffett*, 2018 WY 133, ¶ 36, 430 P. 3d 754, 764 (Wyo. 2018); *Moore v. Lubnau*, 855 P. 2d 1245, 1248 (Wyo.

1993); *Dockter v. Lozano*, 2020 WY 119, ¶ 28, 472 P. 3d 362, 370 (Wyo. 2020)). The plaintiff must show: “(1) the accepted standard of care in the legal profession; (2) the attorney’s conduct departed from that standard; and (3) the attorney’s conduct was the legal cause of the [plaintiff’s] injuries.” *Kappes*, ¶ 18, 547 P. 3d at 305 (quoting *Tozzi*, ¶ 36, 430 P. 3d at 764). An attorney is “held to that degree of care, skill, diligence, and knowledge commonly possessed and exercised by a reasonable, careful, and prudent lawyer in Wyoming.” *Scranton*, ¶ 25, 463 P. 3d at 791 (citing *Moore*, 855 P. 2d at 1250).

[¶ 23] A party trying to establish the elements of a legal malpractice claim will typically need to present expert testimony. *Id.* Expert testimony is necessary because most lay people are not qualified to pass judgment on legal questions. *Id.* (citing *Moore*, 855 P. 2d at 1249; *Meyer v. Mulligan*, 889 P. 2d 509, 516 (Wyo. 1995)). A party would not need expert testimony only if a lay person’s “common sense and experience are sufficient to establish the standard of care.” *Id.* (quoting *Bevan v. Fix*, 2002 WY 43, ¶ 40, 42 P. 3d 1013, 1026 (Wyo. 2002)).

[¶ 24] A lay person’s common sense and experience would not be sufficient to establish the standard of care in this case. This case involved issues about whether the vaccines could cause or aggravate Ms. [redaction added]’s MS, the applicable statute of limitations and whether it could be overcome with a refiled petition, the requirements of the National Vaccine Injury Compensation Program, whether double damages were available, and whether Mr. Gage caused injury to Ms. [redaction added]. These are

Suppl. App. 21

not matters of common sense or in the experience of the average lay person. Because Ms. [redaction added] failed to designate an expert, she would not be able to present evidence of the appropriate standard of care. She would also be unable to show whether Mr. Gage adhered to that standard of care or whether he caused her injury.

[¶25] Indeed, the general rule is expert testimony is necessary to demonstrate the causation element. *Scranton*, ¶25, 463 P.3d at 791 (citation omitted). The plaintiff must employ another attorney to prove the underlying action would have been successful, but for the attorney's misconduct. *Id.* (quoting *Horn v. Wooster*, 2007 WY 120, ¶9, 165 P.3d 69, 72 (Wyo. 2007)). The damages available to an aggrieved client from a negligent attorney are the amount the client would have expected to recoup if his underlying action had been successful. *Id.* (citing *Horn*, ¶15, 165 P.3d at 74). Without an expert, Ms. [redaction added] would be unable to provide any of this type of evidence to a jury.

[¶26] Thus, Mr. Gage met his burden. Ms. [redaction added] then did not rebut Mr. Gage's prima facie showing because the failure to designate an expert was fatal. Summary judgment was appropriate.

ISSUE 3

Should this Court consider Ms. [redaction added]'s assertions related to privacy act violations?

[¶27] Ms. [redaction added] asserts Mr. Gage breached multiple privacy laws and W. R. C. P. 5.2 related to privacy protections in filings he made with the

Suppl. App. 22

court. Ms. [redaction added] did not raise this issue in the district court. Generally, we will not consider an issue raised for the first time on appeal unless it is jurisdictional or “of such a fundamental nature that it must be considered.” *Sharpe v. Evans*, 2025 WY 70, ¶ 14, 570 P. 3d 731, 736 (Wyo. 2025) (quoting *Evans v. Sharpe*, 2023 WY 55, ¶ 42, 530 P. 3d 298, 312 (Wyo. 2023)). “We follow this rule because it is unfair to reverse a ruling of a trial court for reasons that were not presented to it, whether it be legal theories or issues never formally raised in the pleadings nor argued to the trial court.” *Id.* (quoting *Stevens v. Governing Body of Town of Saratoga*, 2025 WY 35, ¶ 62, 566 P. 3d 166, 180 (Wyo. 2025)) (citation modified). Ms. [redaction added]’s argument is neither jurisdictional nor fundamental; thus, we decline to consider it for the first time on appeal.

CONCLUSION

[¶ 28] We affirm.