IN THE

SUPREME COURT OF THE STATE OF ARIZONA

OYESIJI A. AROJOJOYE, M.D.,

Petitioner,

v.

VICKIE ALLEN, SPECIAL ADMINISTRATOR OF THE ESTATE OF CRYSTAL ALLEN, FOR AND ON BEHALF OF THE DECEDENT'S ESTATE; VICKIE ALLEN, HERSELF AS SURVIVING MOTHER AND ON BEHALF OF ALL STATUTORY BENEFICIARIES,

Respondent.

No. CV-25-0119-PR
Filed August 21, 2026

Special Action from the Superior Court in Maricopa County
The Honorable Michael D. Gordon, Judge
No. CV2020-055357
VACATED AND REMANDED

Memorandum Decision of the Court of Appeals
Division One
No. 1 CA-SA 24-0270
Filed Apr. 17, 2025
VACATED

COUNSEL:

Douglas R. Cullins, Eileen Dennis GilBride (argued), Jones, Skelton & Hochuli P.L.C., Phoenix, Attorneys for Oyesiji A. Arojojoye, M.D.

Jeffrey L. Victor (argued), Jeffrey L. Victor, P.C., Scottsdale, Attorney for Vickie Allen

Adam Studnicki, Studnicki Law Firm, P.C., Scottsdale, Attorney for Amicus Curiae Arizona Association for Justice/Arizona Trial Lawyers Association

Kelley M. Jancaitis, Broening Oberg Woods & Wilson, P.C., Phoenix, Attorneys for Amici Curiae Arizona Medical Association, American Medical Association, and Phoenix Children's Hospital, Inc.

JUSTICE MONTGOMERY authored the Opinion of the Court, in which CHIEF JUSTICE TIMMER, VICE CHIEF JUSTICE LOPEZ and JUSTICES BOLICK, BEENE, CRUZ, and PELANDER (Retired) joined.*

JUSTICE MONTGOMERY, Opinion of the Court:

¶1 To establish a claim of medical malpractice, a plaintiff must prove that a health care provider failed to meet the standard of care and that this failure caused the alleged injury. A.R.S. § 12-563. Arizona law requires that this proof be offered through expert testimony, with a limited exception. *Francisco v. Affiliated Urologists Ltd.*, 258 Ariz. 95, 101 ¶ 25 (2024) ("The only exception to the statutory requirement for expert testimony lies within the common-law doctrine of res ipsa loquitur."). In *Baker v. University Physicians Healthcare*, 231 Ariz. 379, 384 ¶ 14 (2013), this Court interpreted A.R.S. § 12-2604 to determine the qualifications required of an expert testifying about the standard of care. *Baker* concluded that the statute required that when the care or treatment at issue falls within the defendant physician's specialty, a standard of care expert must have the same specialty.

¶2 Here, the defendant physician asserts that he is a board certified wound care specialist and that the treatment he provided was wound care. Thus, he argues that the plaintiff's standard of care expert must also be a board certified wound care specialist. The trial court found that the treatment provided was not within the defendant physician's claimed specialty, though it did find that he held the claimed certification. The court of appeals concluded that the treatment at issue was wound care and, relying on *Baker*, found that the defendant physician was a wound care specialist "within the meaning of [§] 12-2604(A)" when he provided the treatment, meaning a qualified expert witness must also be a wound care

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* Justice Kathryn H. King is recused from this matter. Pursuant to article 6, section 3 of the Arizona Constitution, Justice John Pelander (Retired) of the Arizona Supreme Court was designated to sit in this matter.

specialist. *Arojojoye v. Allen*, No. 1 CA-SA 24-0270, 2025 WL 1135746, at *3 ¶ 14, *4 ¶ 20 (Ariz. App. Apr. 17, 2025) (mem. decision).

¶3 We must determine whether the court of appeals properly applied § 12-2604(A) as we interpreted it in *Baker*. Our inquiry is twofold: (1) whether the treatment at issue is within the practice of wound care; and (2) whether the defendant physician's claimed board certified wound care specialty qualifies as a specialty under § 12-2604.

¶4 Because the court of appeals did not correctly identify the care or treatment at issue or engage in the required analysis of the claimed board certified specialty, it did not properly apply § 12-2604. We therefore vacate the court of appeals' memorandum decision. Furthermore, the record is unclear as to whether the trial court considered the care or treatment at issue as alleged by the plaintiff. We therefore also vacate the trial court's ruling and remand to the trial court for reconsideration consistent with this Opinion.

FACTS & PROCEDURAL BACKGROUND

¶5 In 2018, Crystal Allen suffered a stroke and was admitted to a skilled nursing facility. During her stay, Dr. Oyesiji Arojojoye evaluated her for a pressure ulcer on her left hip and performed a debridement of the affected area. Shortly thereafter, Crystal developed an infection that led to sepsis, and she died.[1] Crystal's mother, Vickie Allen, sued Arojojoye and others, alleging that they "failed to protect [Crystal] from incurring septic shock, sepsis, and skin abscess," "failed to timely and accurately assess [Crystal's] medical conditions and refer [her] for any immediate medical treatment," and "failed to appropriately treat and prevent [her] from obtaining multiple abscesses, sepsis and septic shock." Allen retained Andrew Marc Meillier, M.D., who is board certified in internal medicine, as her standard of care expert.

¶6 Arojojoye moved for summary judgment. He asserted that, in addition to being board certified in internal medicine, he was also a board certified wound care specialist and provided wound care to Crystal.

[1] Because this case involves multiple family members with the Allen surname, we respectfully use Crystal's first name and refer to Vickie Allen by her surname.

Arojojoye argued that under § 12-2604, therefore, any alleged deviations from the standard of care must be addressed by a physician who had the same education and training and who practiced in the same specialty as he did. Arojojoye thus argued that Meillier, who did not have the same specialty, could not testify to the standard of care. Consequently, without testimony from a qualified expert, Arojojoye asserted that Allen could not make a prima facie case of medical negligence against him.[2]

¶7 Allen opposed Arojojoye's motion and conceded that Meillier was not board certified in wound care. Regardless, she argued that Arojojoye was not a wound care specialist and that he was practicing as an internist when he treated Crystal. Accordingly, Allen argued that Meillier, as a board certified internist, had the requisite certification to testify as an expert on the standard of care under § 12-2604(A).

¶8 The trial court denied Arojojoye's motion for summary judgment. The court found that, although he was a certified wound care specialist, the care he provided fell within his internal medicine practice. Therefore, the court ruled that Meillier was qualified to testify. Arojojoye then filed a special action petition with the court of appeals.

¶9 The court of appeals accepted special action jurisdiction and granted relief. *Arojojoye*, 2025 WL 1135746, at *1 ¶ 1. The court initially rejected Allen's argument that Arojojoye was not a wound care specialist because he failed to sufficiently demonstrate that he held the certification at the time he treated Crystal. *Id.* at *2 ¶ 11. The court instead concluded that, given a witness's competence to testify to facts within their personal knowledge, Arojojoye's uncontroverted declaration that he held the certification supported the trial court's finding that he was certified at the time of treatment. *Id.* at *2 ¶ 12.

¶10 Allen also argued that Arojojoye was not certified in wound care because the certification lacked any "special, distinct, or advanced training in wound care" and that the certification was merely a marketing tool. She further noted that it was not mentioned on his practice's website, and he did not hold himself out as a wound care specialist. *Id.* at *3 ¶¶ 13–14. Relying on § 12-2604 and *Baker*, the court of appeals rejected

[2] Arojojoye also sought summary judgment on two other issues not before us.

these arguments and concluded that "Arojojoye's board certification in wound care by the [American Board of Wound Management ("ABWM")] establishes that . . . he was a wound care specialist within the meaning of [§] 12-2604(A)." *Id.* ¶ 14.

¶11 The court further disagreed with Allen's contention that Arojojoye was practicing as an internist at the time of treatment. It also concluded that "[t]o the extent [the trial court found] that the medical treatment at issue in this case was outside Arojojoye's wound care specialty, this finding is supported by no evidence in the record." *Id.* ¶ 17. Finally, the court rejected Allen's argument that an internist qualifies as a wound care provider, reasoning that *Baker* requires an expert with the same specialty, even if a physician with another specialty could have rendered the treatment at issue. *Id.* at *4 ¶ 18. The court therefore determined that Allen needed a board certified wound care specialist to testify as to the applicable standard of care. *Id.* ¶ 20. As a result, it reversed the trial court's denial of Arojojoye's motion for summary judgment and remanded for entry of judgment in his favor. *Id.* ¶ 21.

¶12 Allen petitioned this Court for review. Because expert witness qualifications in medical malpractice actions are a recurring issue of statewide importance, we granted review on the rephrased question: "Did the court of appeals misapply A.R.S. § 12-2604 and this Court's decision in *Baker v. University Physicians Healthcare*, 231 Ariz. 379 (2013), in concluding that Plaintiff's medical malpractice expert was unqualified to provide expert testimony?" We have jurisdiction under article 6, section 5(3) of the Arizona Constitution.

DISCUSSION

¶13 We review summary judgment determinations de novo. *Glazer v. State*, 237 Ariz. 160, 167 ¶ 29 (2015). In doing so, we consider the facts in the light most favorable to the nonmoving party. *Windhurst v. Ariz. Dep't of Corr.*, 256 Ariz. 186, 191 ¶ 11 (2023).

¶14 Allen argues that, consistent with *Baker*, a specialty is one that "objectively" identifies and reflects "distinct training and experience," so the value of certification lies in "the advanced training and skill learned through the certification requirements." Allen further asserts that when a certification neither provides nor requires advanced training or skill,

§ 12-2604's requirements should not apply. Here, Allen notes that the ABWM only requires three years of practice involving wound care services, payment of a fee, and passage of an exam to obtain certification.

¶15 Arojojoye argues that a "specialty" is not limited to American Board of Medical Specialties ("ABMS") certifications and includes a broad range of practice areas recognized by other certifying bodies. He contends that a specialty is simply an area of medicine in which a physician may become board certified. With respect to the ABWM, Arojojoye notes that it is accredited by the National Commission for Certifying Agencies, and the certification requires three-plus years of clinical wound care experience, passage of a national exam, and six hours of continuing education annually, "which is exactly the kind of certification process that § 12-2604 envisions."

A. *Baker* and § 12-2604(A)(1)

¶16 Section 12-2604(A)(1) provides:

> In an action alleging medical malpractice, a person shall not give expert testimony on the appropriate standard of practice or care unless the person is licensed as a health professional in this state or another state and the person meets the following criteria:
>
> 1. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist, specializes at the time of the occurrence that is the basis for the action in the same specialty or claimed specialty as the party against whom or on whose behalf the testimony is offered. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist who is board certified, the expert witness shall be a specialist who is board certified in that specialty or claimed specialty.

In *Baker*, this Court considered the meaning of "specialty," "specialist," and what constitutes board certification under § 12-2604. 231 Ariz. at 384 ¶ 10. We began by declaring the statute ensured that "in a medical malpractice action, only physicians with comparable training and experience may provide expert testimony regarding whether the treating physician provided appropriate care." *Id.* at 383 ¶ 9.

¶17 However, we noted that "only if the care or treatment involved a medical specialty will expertise in that specialty be relevant to the standard of care in a particular case." *Id.* at 384 ¶ 12. Thus, "[i]f a treating physician practices outside his or her specialty, the statute does not require a testifying expert to possess qualifications in an irrelevant medical specialty." *Id.* ¶ 13. Accordingly, this Court interpreted § 12-2604(A) to require "that a testifying expert specialize 'in the same specialty or claimed specialty' as the treating physician only when the care or treatment at issue was within that specialty." *Id.* ¶ 14 (quoting § 12-2604(A)).

¶18 Turning to the meaning of "specialist" and "specialty," we "conclud[ed] that a 'specialist' is someone who devotes most of his or her professional time to a particular 'specialty.'" *Id.* at 385 ¶ 17. We further noted that "the statute is . . . reasonably interpreted as contemplating that 'specialty' has a more general, objectively determinable meaning. In other words, a physician might 'claim' to be a specialist, but the statute does not mean that a 'specialty' is whatever the treating physician claims." *Id.* Ultimately, we "construe[d] 'specialty' for purposes of § 12-2604 as referring to a limited area of medicine in which a physician is or may become board certified." *Id.* ¶ 21.

¶19 *Baker* grounded the determination of a specialty on board certification because § 12-2604(A)(1) references "a specialist who is board certified." *Id.* ¶ 18. Additionally, the Court reasoned that "[d]efining 'specialty' by reference to practice areas in which a physician may obtain board certification is a workable approach because these areas are objectively identifiable and reflect recognition by certifying bodies that certain practice areas involve distinct training and experience." *Id.* ¶ 21. However, we rejected limiting specialties to ABMS certifications. *Id.* at 386 ¶ 22. Instead, we adopted a more flexible approach that determines on a case-by-case basis whether a claimed specialty—or subspecialty—qualifies as the relevant specialty, regardless of whether the ABMS is the certifying body. *Id.* ¶¶ 24, 26.

¶20 We then set out what a trial court must do when a defendant physician is or claims to be a specialist. Initially, a "court must . . . determine if the care or treatment at issue involves the identified specialty." *Id.* ¶ 27. If it does, then an expert testifying against a defendant physician "must share the same specialty as the [defendant] physician." *Id.* Finally, a court "must determine if the [defendant]

physician is board certified within that specialty. If so, any testifying expert must also be board certified in that specialty." *Id.*

¶21 The resolution of expert qualifications in *Baker* provides further guidance. The parties contested whether the relevant specialty was hematology or pediatric hematology-oncology. *Id.* at 387 ¶ 29. The defendant physician was certified in both pediatrics and pediatric hematology-oncology. *Id.* at 382 ¶ 3. The expert offered by the plaintiff was certified in internal medicine, hematology, and medical oncology. *Id.*

¶22 The record in *Baker* "suggest[ed] that both non-pediatric and pediatric hematologists could have treated a seventeen-year-old patient for a blood disorder." *Id.* at 387 ¶ 31. And we found that "[t]he trial court did not abuse its discretion in concluding that [the defendant physician] was practicing within her specialty of pediatric hematology-oncology." *Id.* Therefore, we concluded that § 12-2604 "required a testifying expert to be certified in [the defendant physician's] specialty, even if physicians in other specialties might also have competently provided the treatment." *Id.*

¶23 We also noted parenthetically that the Court did not have the occasion "to interpret the statutory language regarding a treating physician who 'claims to be a specialist who is board certified'" because the defendant physician was "indisputably . . . board certified." *Id.* at 387 ¶ 27. Here, though, Arojojoye's board certification is in dispute. Thus, we do have the occasion to consider the application of § 12-2604 regarding a claimed board certified specialty.

B. Standard of Review

¶24 As an initial matter, the parties dispute what standard of review governs whether Dr. Arojojoye was treating Allen within an identified specialty at the time of the alleged malpractice. Allen contends that this determination is factual, entrusted to the trial court, and reviewable only for abuse of discretion, and asserts that the court of appeals violated that standard by substituting its own finding—that Arojojoye was practicing as a wound care specialist—for the trial court's finding that he was practicing internal medicine.

¶25 Arojojoye responds that the court of appeals properly reviewed the issue de novo because the trial court's error was legal rather than factual—it asked only whether he was "acting as an internist" rather than whether he was acting within his board certified wound care specialty—and that, in any event, the record was undisputed on that point, leaving only a question of law. In his supplemental brief, Arojojoye offers an alternative argument, conceding that *Baker* "seems to suggest (without actually holding)" that abuse of discretion governs the specialty identification inquiry. Still, he argues that the trial court abused its discretion regardless because it either committed an error of law or reached a conclusion unsupported by competent evidence.

¶26 *Baker* provides the answer. We review determinations concerning expert witness qualifications for an abuse of discretion, aside from issues regarding statutory interpretation, which we review de novo. *Baker*, 231 Ariz. at 387 ¶ 30. "This standard of review equally applies to admissibility questions in summary judgment proceedings." *Id.*; *see also Rasor v. Nw. Hosp., LLC*, 243 Ariz. 160, 163 ¶ 11 (2017) (quoting *Baker* in reviewing a grant of summary judgment). We next consider whether the care or treatment in question falls within Arojojoye's claimed specialty.

C. Treatment Within the Specialty

¶27 Under *Baker*, "[t]he standard of care . . . necessarily depends on the particular care or treatment at issue" and § 12-2604(A)(1) requires a same-specialty expert "only when the care or treatment at issue was within" the defendant's specialty. 231 Ariz. at 384 ¶¶ 12, 14. Thus, a court must initially identify the care or treatment at issue. And the record here reflects considerable confusion.

¶28 Allen argues that the court of appeals failed to properly consider what she alleges in her complaint. Specifically, she asserts that she is not alleging that when Arojojoye treated Crystal's wound, he failed to meet the appropriate standard of care. Rather, she claims that Arojojoye failed to provide the proper treatment when Crystal developed a fever or when the infection began to worsen. Meillier's declaration, which addresses Arojojoye's October 1, 2018 visit, states what treatment he should have provided:

> [Crystal] had a worsening of her left hip ulcer and was experiencing fevers starting on October 1st. The worsening of her ulcer represented a source of infection causing her sepsis. *Further workup with advanced imaging, surgery consultation for infectious source control, and hospitalization for treatment of her sepsis were indicated. Failure of Dr. Arojojoye to perform this additional work up for evaluation and treatment for her sepsis represents a breach of the standard of care.*

(Emphasis added.) In other words, Allen does not allege that the wound care Arojojoye provided caused or contributed to Crystal's death, but rather that his failure to follow up and provide treatment for the systemic infection after the debridement caused her death.

¶29 Allen's counsel underscored this distinction by arguing to the trial court that "[t]here are no criticisms regarding the wound care treatment." Instead, counsel argued that "the whole criticism is [Arojojoye] saw a fever, he noted a fever on October 1st, it's an internal medicine issue, and he did nothing about it as an internist. That's the criticism, okay, for Dr. Arojojoye."[3]

¶30 In contrast, Arojojoye focuses on the wound care management he provided to Crystal, as confirmed by Meillier's own declaration. In particular, Arojojoye points out that Meillier's declaration included quotations from notes in Crystal's medical records showing that she received treatment from the "wound care team" from her admission in July of 2018 and that "[w]ound care service Dr. Arojojoye was consulted for evaluation . . . on August 6, 2018." The declaration also stated that on October 1, 2018, "Dr. Arojojoye of the wound care team . . . performed a bedside debridement." Arojojoye further asserts that his visit to Crystal was part of a wound care team consultation to examine and assess "multiple wounds," which were addressed by the treatment plan he ordered.

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[3] The court of appeals disregarded Allen's citation to her counsel's arguments before the trial court because they "are not evidence." *Arojojoye*, 2025 WL 1135746, at *4 ¶ 19 (internal quotation marks omitted) (internal citation omitted). We note counsel's arguments not as evidence in support of her underlying claim but to highlight the care or treatment she alleged is at issue.

¶31 As to the treatment issue below, the trial court's stated reason for denying Arojojoye's summary judgment motion reads: "While Defendant Oyesiji Arojojoye M.D[.] has a certification as a wound specialist, the care he rendered in this case—for which fault is alleged—falls within his practice of internal medicine. Thus, Dr. [Meillier] is qualified to testify." The court of appeals challenged the trial court's treatment finding, stating that "[t]o the extent this constitutes a finding that the medical treatment at issue in this case was outside Arojojoye's wound care specialty, this finding is supported by no evidence in the record." *Arojojoye*, 2025 WL 1135746, at *3 ¶ 17. The court then concluded that Arojojoye was practicing wound care based on the declarations of Arojojoye and Meillier describing the treatment actually rendered to Crystal. *Id.*

¶32 The parties' arguments and this record reveal that the court of appeals and Arojojoye misapprehend Allen's allegations regarding the care or treatment at issue. It is not what Arojojoye *did* while treating Crystal's wound (as a wound care specialist or otherwise) that is at issue, but what he *did not do* after she developed an infection. In other words, the care or treatment at issue does not involve the adequacy of the wound debridement itself, but the alleged failure to recognize, evaluate, and treat Crystal's developing systemic infection. § 12-2604(A)(1). And the record does not reflect whether the treatment Arojojoye allegedly failed to provide falls within the wound care specialty or not.

¶33 In reaching its conclusion regarding treatment, the court of appeals considered only what Arojojoye did to treat Crystal's wounds. The court did not consider the follow-up care or treatment as alleged by Allen. Thus, by not correctly identifying the care or treatment at issue to determine whether it was within the practice of wound care, the court of appeals did not properly apply § 12-2604.

¶34 With respect to the trial court's ruling, it is indeterminate. In denying summary judgment, the court found that "the care [Arojojoye] rendered in this case" fell outside wound care. Rule 56(a), Arizona Rules of Civil Procedure, required the court to state the reasons for its ruling with enough clarity to permit appellate review. This finding does not do that, because it permits two different readings that lead to two different conclusions.

¶35 Under the first reading, "care rendered" means the treatment Arojojoye actually gave Allen. On this reading, the court found that this treatment—basic wound care—falls within internal medicine rather than wound care. But basic wound care could fall within both specialties, and the court's finding does not address that possibility.

¶36 Under the second reading, "care rendered" means the follow-up care and sepsis treatment that Allen alleges Arojojoye failed to provide. This reading requires us to infer that "care rendered" refers to care that was not rendered. On this reading, the court found that the omitted follow-up and sepsis treatment falls within internal medicine only.

¶37 The record does not reveal which reading the trial court adopted, or whether the court considered whether basic wound care might fall within both specialties. Ordinarily, we would affirm "where any reasonable view of the facts and law might support the judgment of the trial court." *City of Phoenix v. Geyler*, 144 Ariz. 323, 330 (1985); *see also McAlister v. Loeb & Loeb, LLP*, 260 Ariz. 97, 108 ¶ 49 (2025) (affirming superior court's entry of summary judgment on other grounds). But we cannot apply that principle without knowing what the trial court actually decided. And the fact-intensive nature of the inquiry into whether a specialty qualifies under § 12-2604, which also governs expert witness qualification, counsels against our resolving that question in the first instance. *See Baker*, 231 Ariz. at 386 ¶ 26 (determination of relevant specialty "depend[s] on the circumstances of a particular case").

¶38 We are also mindful that a specialist may provide treatment that does not involve their particular specialty but is part of a broader practice. *See id.* And "different specialists may be prepared by training and experience to treat the same medical issue for a particular patient." *Id.* at 383 ¶ 9. Thus, it might prove true that the alleged omissions are part of the practice of internal medicine *and* wound care, similar to what the trial court found in *Baker*. *See id.* at 387 ¶ 31. If so, then *Baker* makes clear that Allen's testifying expert must have the same board certified specialty as Arojojoye. *Id.* at 386 ¶ 26 (discussing overlapping specialties and care). Accordingly, we vacate the trial court's ruling and remand for consideration of Arojojoye's motion while applying the principles in this Opinion. *See, e.g.*, *Higdon v. Evergreen Int'l Airlines, Inc.*, 138 Ariz. 163, 167 (1983) (concluding that "where findings are infirm because of an erroneous

view of the law, a remand is the proper course unless the record permits only one resolution of the factual issue").

¶39 Our resolution renders further consideration of the parties' arguments concerning Arojojoye's claimed board certification unnecessary. However, given the lower courts' perfunctory assessment of his specialty and the likelihood of further litigation on the issue on remand, we exercise our discretion to provide further guidance on the application of § 12-2604.

D. ABWM Wound Care Certification Under § 12-2604(A)

1. Section 12-2604(A)(1)

¶40 If on remand the trial court determines that the treatment at issue falls within wound care, "[t]he trial court then must determine if the treating physician is board certified within that specialty." *Baker*, 231 Ariz. at 386 ¶ 27. As *Baker* noted, "a physician might 'claim' to be a specialist, but the statute does not mean that a 'specialty' is whatever the treating physician claims." *Id.* at 385 ¶ 17. There is no reason to conclude otherwise for a claimed board certified specialty.

¶41 *Baker* identified several characteristics of board certification for a court's consideration in determining whether a defendant physician's claimed area of practice qualifies as a specialty: (1) it is a voluntary process administered by an organization that recognizes certain practice areas of a branch of medicine or surgery; (2) it requires graduation from an accredited medical school; (3) it involves "successful completion of residency or other training," reflecting distinct training and experience; and (4) it requires an exam for certification and "continuing education and practice requirements." *Id.* ¶ 19. Other indicators of a qualifying board certification include the conferral of "certain advantages such as hospital privileges, lower malpractice insurance rates, and higher salaries." *Id.* ¶ 20. Not part of the determination is whether the certification is recognized by the ABMS. *Id.* at 386 ¶ 24. Nor are a physician's motives for obtaining certification relevant.

¶42 Here, the trial court simply stated that "Defendant Oyesiji Arojojoye M.D[.] has a certification as a wound specialist." The court of appeals likewise concluded that "Arojojoye's board certification in wound care by the ABWM establishes that when he provided the treatment

at issue, he was a wound care specialist within the meaning of [§] 12-2604(A)." *Arojojoye*, 2025 WL 1135746, at *3 ¶ 14. "But the statute does not suggest that the [L]egislature intended the meaning of 'specialty' to turn on how a treating physician might describe his or her own particular practice." *Baker*, 231 Ariz. at 385 ¶ 17. And the record does not reveal the extent of either court's review of whether Arojojoye's board certification meets the requirements under § 12-2604. We express no view as to whether it does.

¶43 Arojojoye argues that we should not "second guess the accredited examination and certification process for wound care management." According to Arojojoye, "[m]edical professionals, not courts or litigants, are in the best position to decide the proper criteria for board certification." As to the particulars of whether a certifying body may offer certification, that may be true, but not with respect to whether that certification satisfies the statutory requirements of § 12-2604.

¶44 Trial courts regularly perform a gatekeeping function in determining the admissibility of expert testimony. *See, e.g.*, *State v. Strong*, 258 Ariz. 184, 208 ¶ 101 (2024) (observing in context of Arizona Rule of Evidence 702 that "[t]rial courts serve as the 'gatekeepers' of admissibility for expert testimony, with the aim of ensuring such testimony is reliable and helpful to the jury." (quoting *State v. Romero*, 239 Ariz. 6, 9 ¶ 12 (2016))). Moreover, judicial review ensures the specialty requirement remains tied to the "comparable training and experience" under § 12-2604 and that the certification reflects materially distinct training and experience. *Baker*, 231 Ariz. at 383 ¶ 9. Thus, when a defendant physician invokes a claimed board certified specialty to exclude a plaintiff's expert, the court must review the defendant physician's claimed certification to determine whether it satisfies the requirements of § 12-2604(A).

2. Section 12-2604(A)(2)

¶45 As relevant here, subsection (A)(2) provides:

> 2. During the year immediately preceding the occurrence giving rise to the lawsuit, devoted a majority of the person's professional time to either or both of the following:

> (a) The active clinical practice of the same health profession as the defendant and, if the defendant is or claims to be a specialist, in the same specialty or claimed specialty.

¶46 As we explained in *Baker*, § 12-2604(A)(2) requires that a testifying expert have devoted a majority of that expert's professional time to the relevant specialty in the year preceding the occurrence. *Id.* at 385 ¶ 16. We further noted that "this requirement suggests that in order for the [defendant] physician to be a specialist, he or she must have similarly spent a majority of his or her professional time practicing or teaching in the claimed specialty." *Id.* Arojojoye argued at oral argument that this "suggestion" is dicta.

¶47 Although this Court did not need to consider the timing requirement of subsection (A)(2) in *Baker*, the observation we made maintains the statute's intent of ensuring comparable training and experience between a testifying expert and a defendant physician. *Id.* at 387 ¶ 28. Consequently, "[b]ecause an individual cannot devote a 'majority' of his or her time to more than one specialty," *id.*, a defendant physician asserting a board certified specialty for purposes of § 12-2604 must have devoted a majority of his professional time to the relevant specialty in the year preceding the occurrence, as well, *see id.* at 385 ¶ 16.

¶48 Because we remand this case to the trial court for reconsideration, we do not consider Arojojoye's argument that Allen waived the issue of whether he satisfies the requirements of § 12-2604(A)(2). Either party may raise arguments concerning expert qualifications under § 12-2604 based on our guidance in this Opinion. *See, e.g.*, *Gulf Homes, Inc. v. Goubeaux*, 136 Ariz. 33, 37 (1983) (noting that "[w]hen the appellate court reverses and remands a cause without specific directions to enter judgment, a new trial may be required"); *Jimenez v. Wal-Mart Stores, Inc.*, 206 Ariz. 424, 427 ¶ 12 (App. 2003) (discussing the ability of parties on a remand for a new trial to "make new motions, raise new objections, and present additional evidence" (quoting *United States v. Tham*, 960 F.2d 1391, 1397 n.3 (9th Cir. 1992))).

CONCLUSION

¶49 We hold that the court of appeals did not properly apply § 12-2604 as interpreted in *Baker*, and we vacate its memorandum decision. The trial court's stated reason for denying Arojojoye's motion for summary

judgment is unclear regarding the consideration of the care or treatment as alleged by Allen, and whether it fell within wound care or not. We therefore vacate the trial court's ruling denying summary judgment and remand for the court to consider the motion consistent with this Opinion.