

IN THE SUPREME COURT OF IOWA

No. 22–1927

Submitted November 15, 2023—Filed December 22, 2023

BRITNI HILTS,

Appellee,

vs.

**ADAM B. SMITH, ADAM SMITH, M.D., P.C., and TRI-STATE SPECIALISTS,
L.L.P.,**

Appellants.

Appeal from the Iowa District Court for Woodbury County, James N. Daane, Judge.

The defendants in a medical malpractice case seek interlocutory review of an order denying their motion to strike and for summary judgment because the expert who signed the plaintiff’s certificate of merit did not have an active license to practice medicine. **REVERSED AND REMANDED.**

Per curiam.

Jeff W. Wright and Zach A. Martin of Heidman Law Firm, P.L.L.C., Sioux City, for appellants.

Jon Specht of Trial Lawyers for Justice, Decorah, for appellee.

PER CURIAM.

Iowa law requires an expert witness on standard of care or its breach by a health care provider to be “licensed to practice in the same or a substantially similar field as the defendant.” Iowa Code § 147.139(1) (2020).

In this medical malpractice case, the plaintiff submitted a certificate of merit affidavit signed by a physician who formerly practiced in the same field as the defendant, plastic surgery. But due to his retirement, the physician’s active practice licenses had expired and become inactive, meaning that he was no longer able to practice medicine. The defendants moved to strike the expert and for summary judgment on this ground. After the district court denied the defendants’ motion, we granted their application for an interlocutory appeal.

In a companion case decided today, *Hummel v. Smith*, ___ N.W.2d ___, ___ (Iowa 2023), we have concluded that the phrase “licensed to practice,” as used in Iowa Code section 147.139(1), requires the expert to have an active license that authorizes the actual practice of medicine; an inactive license not authorizing practice is insufficient. This case involves the same named expert as *Hummel. Id.* at ___. The expert signed the affidavit in 2020, when he was retired, as in *Hummel. Id.* at ___. Therefore, for the reasons stated in *Hummel*, we reverse the district court’s ruling and remand for entry of judgment in favor of the defendants.

REVERSED AND REMANDED.

This opinion shall not be published.