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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

JOYCE MAURA, a Minor, etc., et al.,

Plaintiffs and Appellants,

v.

JOSEPH A. HARDWICK et al.,

Defendants and Respondents.

B236399

(Los Angeles County
Super. Ct. No. BC460858)

APPEAL from a judgment of the Superior Court of Los Angeles County.

James R. Dunn, Judge. Affirmed.

Susan M. Mogilka for Plaintiffs and Appellants.

Law, Brandmeyer + Packer and Yuk K. Law; David J. Ozeran for Defendants and Respondents Joseph A. Hardwick, David L. Sincavage, Jr., and Leonard Y. Herman.

Bonne, Bridges, Mueller, O'Keefe & Nichols, David J. O'Keefe, William R. Johnson, and Vangi M. Johnson for Defendant and Respondent Los Angeles Doctors Corporation, LP doing business as L.A. Metropolitan Medical Center.

On May 3, 2011, Joyce Maura, Kailyn Maura, and Mathew Maura, who are minors, filed a lawsuit for loss of parental consortium arising out of alleged injury to their mother, Mayra Cerna, against defendants and respondents Joseph A. Hardwick, David L. Sincavage, Jr., Leonard Y. Herman, and Los Angeles Doctors Corporation, LP doing business as L.A. Metropolitan Medical Center. Defendants demurred and moved to strike the minors' claims pursuant to the California Supreme Court's holding in *Borer v. American Airlines, Inc.* (1977) 19 Cal.3d 441, 444 (*Borer*) [barring children's claims for loss of consortium]. The trial court sustained defendants' demurrer and dismissed the minors from the action.¹ The minors appeal, seeking "a change in the law for minor children who are presently barred by the California Supreme Court decision in *Borer* . . . from recovering damages for their own losses to their parent-child relationships when one, or even both parents, suffers non-fatal injuries caused by the negligence of another."

As the parties agree, *Borer, supra*, 19 Cal.3d at page 444, bars the minors from asserting claims for their own losses in their parent-child relationship with their mother. We are bound by the California Supreme Court's decision. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455; *Nix v. Preformed Line Products Co.* (1985) 170 Cal.App.3d 975, 981 ["Decisions of the Supreme Court that have never been reversed or modified are binding [citation]; we must follow the holding in *Borer*. It is not the function of an intermediate court to reexamine a Supreme Court decision for the purpose of enunciating and enforcing a different rule of law"]; *Tullai v. Homan* (1987) 195 Cal.App.3d 1184, 1187 [the minors' contention that *Borer* should be reconsidered must be addressed in the Supreme Court].)

It follows that we affirm.

¹ The mother remains a plaintiff in the action.

DISPOSITION

The judgment is affirmed. Defendants are entitled to costs on appeal.

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_____, J.
ASHMANN-GERST

We concur:

_____, Acting P. J.
DOI TODD

_____, J.
CHAVEZ