

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

TERESA WORLEY, : APPEAL NO. C-190729
Plaintiff-Appellant, : TRIAL NO. A-1806539
vs. :
ABUBAKAR ATIQ DURRANI, M.D., :
and :
CENTER FOR ADVANCED SPINE :
TECHNOLOGIES, INC., :
Defendants, :
and :
CHRIST HOSPITAL, :
Defendant-Appellee. :

THOMAS ATKINSON, : APPEAL NO. C-190730
Plaintiff-Appellant, : TRIAL NO. A-1806491
vs. :
ABUBAKAR ATIQ DURRANI, M.D., :
CENTER FOR ADVANCED SPINE :
TECHNOLOGIES, INC., :
and :
CINCINNATI CHILDREN'S :
HOSPITAL MEDICAL CENTER, :
Defendants, :

OHIO FIRST DISTRICT COURT OF APPEALS

and :
CHRIST HOSPITAL, :
Defendant-Appellee. :

TAMATHY WILDER, : APPEAL NO. C-190740
Plaintiff-Appellant, : TRIAL NO. A-1706611

vs. : *JUDGMENT ENTRY.*

ABUBAKAR ATIQ DURRANI, M.D., :
CENTER FOR ADVANCED SPINE :
TECHNOLOGIES, INC., :
WEST CHESTER HOSPITAL, LLC, :
and :
UC HEALTH, :
Defendants, :
and :
CHRIST HOSPITAL, :
Defendant-Appellee. :

The court sua sponte removes these cases from the regular calendar and places them on the court’s accelerated calendar, 1st Dist. Loc.R. 11.1.1(A), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

These three consolidated appeals concern the latest in the long line of cases involving an alleged medical-fraud scheme by defendant Abubakar Atiq Durrani, M.D., and defendant-appellee The Christ Hospital (“TCH”). Plaintiffs-appellants are

three former patients of Durrani who underwent various spinal surgeries at TCH. The surgeries did not improve any of appellants' conditions. On the contrary, appellants experienced an array of painful and debilitating symptoms after the surgeries.

Appellants separately filed complaints against Durrani, TCH, and other associated entities. The claims asserted against TCH—which are the subjects of this appeal—included negligence, negligent credentialing, supervision, and retention, fraud, and spoliation of evidence. However, all of appellants' claims were filed more than four years after the underlying surgeries. Consequently, the trial court held that the four-year medical-malpractice statute of repose barred all of appellants' claims and dismissed all of the cases with prejudice.

In a single assignment of error, appellants challenge the trial court's application of the medical-malpractice statute of repose and grant of TCH's motions to dismiss. However, all of appellants' arguments have been considered and rejected by this court in previous Durrani cases.

First, appellants contend that their negligent-credentialing claims are not “medical claims” as defined in R.C. 2305.113(E). This argument is squarely foreclosed by *Young v. Durrani*, 2016-Ohio-5526, 61 N.E.3d 34 (1st Dist.); *McNeal v. Durrani*, 2019-Ohio-5351, 138 N.E.3d 1231, ¶ 19 (1st Dist.), *rev'd on other grounds*, *Scott v. Durrani*, Slip Opinion No. 2020-Ohio-6932; *Jonas v. Durrani*, 2020-Ohio-3787, 156 N.E.3d 365, ¶ 10 (1st Dist.), *rev'd on other grounds*, *Carr v. Durrani*, Slip Opinion No. 2020-Ohio-6943; and *Couch v. Durrani*, 1st Dist. Hamilton Nos. C-190703, C-190704, C-190705, C-190706 and C-190707, 2021-Ohio-726. We decline appellants' invitation to revisit this well-settled law.

Second, appellants argue that their fraud claims are not “medical claims” as defined in R.C. 2305.113(E). This argument was rejected for substantially similar claims in *Freeman v. Durrani*, 2019-Ohio-3643, 144 N.E.3d 1067, ¶ 18-21 (1st Dist.), and *McNeal* at ¶ 18. We again decline appellants’ invitation to revisit issues that are well-settled in this district.

Third, appellants urge this court to apply judicial doctrines of fraud and equitable estoppel as exceptions to the statute of repose. We have repeatedly rejected this invitation in the past and do the same here. See *Freeman* at ¶ 24; *Jonas* at ¶ 11. “Where the General Assembly could have included an equitable estoppel or fraud exception (as some other states have done), but declined to do so, our job is not to supplant that authority, but rather to apply the statute as written.” *Jonas* at ¶ 11.

Finally, appellants argue that the trial court erred in dismissing their spoliation-of-evidence claims. However, this argument is precluded by our recent decision in *Janson v. Christ Hospital, Inc.*, 1st Dist. Hamilton Nos. C-200047, C-200048, C-200050, C-200052, C-200053, C-200054, C-200055 and C-200056, 2021-Ohio-1467, ¶ 32 (holding that appellants could not prove the requisite disruption element where all other claims brought against defendant hospital were properly dismissed).

Having rejected each of appellants’ arguments raised herein, we accordingly overrule their sole assignment of error and affirm the judgments of the trial court.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

ZAYAS, P.J., BERGERON and CROUSE, JJ.

To the clerk:

OHIO FIRST DISTRICT COURT OF APPEALS

Enter upon the journal of the court on May 28, 2021,
per order of the court _____.
Administrative Judge

