

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

MARTHA HUTTON,	:	APPEAL NO. C-200383
and	:	TRIAL NO. A-1505050
STEVE HUTTON,	:	<i>JUDGMENT ENTRY.</i>
Plaintiffs-Appellants,	:	
vs.	:	
ABUBAKAR ATIQ DURRANI, M.D.,	:	
CENTER FOR ADVANCED SPINE TECHNOLOGIES, INC.,	:	
WEST CHESTER HOSPITAL, LLC,	:	
and	:	
CHILDREN'S HOSPITAL MEDICAL CENTER,	:	
Defendants,	:	
and	:	
THE CHRIST HOSPITAL,	:	
Defendant-Appellee.	:	

The court sua sponte removes this case from the regular calendar and places it 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.

This appeal represents the latest in a long line of cases by former patients of defendant Abubakar Atiq Durrani, M.D., against Durrani and defendant-appellee The Christ Hospital (“TCH”).

In a single assignment of error, plaintiffs-appellants Martha and Steve Hutton argue that the trial court erred by granting TCH’s motion to dismiss their claims for negligent credentialing and fraud. Because this court has previously considered and rejected each of the issues that appellants present for our review, we affirm the trial court’s judgment.

In the first issue presented for review, appellants argue that the trial court erred by finding that their negligent-credentialing claim against TCH was a “medical claim” subject to the statute of repose. Appellants acknowledge that our precedent has held that negligent-credentialing claims are “medical claims” under R.C. 2305.113(E) and are therefore subject to the statute of repose. *See Young v. Durrani*, 2016-Ohio-5526, 61 N.E.3d 34, ¶ 21 (1st Dist.); *Crissinger v. Christ Hosp.*, 2017-Ohio-9256, 106 N.E.3d 798, ¶ 17 (1st Dist.); *McNeal v. Durrani*, 2019-Ohio-5351, 138 N.E.3d 1231, ¶ 19 (1st Dist.), *rev’d on other grounds*, *Scott v. Durrani*, 162 Ohio St.3d 507, 2020-Ohio-6932, 165 N.E.3d 1268; *Jonas v. Durrani*, 2020-Ohio-3787, 156 N.E.3d 365, ¶ 10 (1st Dist.), *rev’d on other grounds*, *Carr v. Durrani*, 163 Ohio St.3d 207, 2020-Ohio-6943, 168 N.E.3d 1188; *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 overturn our precedent.

In the second issue presented for review, appellants urge us to recognize a fraud exception to the statute of repose. We have repeatedly rejected such an invitation, and we do so again here. *See Crissinger* at ¶ 24; *Freeman v. Durrani*, 2019-Ohio-3643, 144 N.E.3d 1067, ¶ 24 (1st Dist.); *Jonas* at ¶ 11.

Next, in their third issue presented for review, appellants assert that their claims are not “medical claims,” but independent nonmedical fraud claims that are not subject to the statute of repose. This court has rejected this argument for substantially identical claims in *McNeal* at ¶ 18, *Freeman* at ¶ 18-21, and *Jonas* at ¶ 9. We decline appellants’ invitation to revisit issues that are well-settled in this district.


Finally, in their fourth issue presented for review, appellants argue that the trial court erred by dismissing their spoliation-of-evidence claim. However, “because all other claims against TCH were properly dismissed under Civ.R. 12(B)(16)[,] * * * [appellants] would be unable to prove disruption of [their case] and [their] spoliation-of-evidence claim[] would inevitably fail.” *See Janson v. Christ Hosp.*, 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. Therefore, dismissal of the spoliation-of-evidence claim was proper. *Id.*

Having rejected each of the issues raised by appellants, we overrule their sole assignment of error and affirm the judgment of the trial court.

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.

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

To the clerk:

Enter upon the journal of the court on August 25, 2021,
per order of the court  _____
Administrative Judge