

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

REBECCA APPLGATE,	:	APPEAL NO. C-190661
	:	TRIAL NO. A-1706553
Plaintiff-Appellant,	:	
vs.	:	
ABUBAKAR ATIQ DURRANI, M.D.,	:	
and	:	
WEST CHESTER HOSPITAL, LLC,	:	
and	:	
UC HEALTH,	:	
Defendants,	:	
and	:	
CHRIST HOSPITAL,	:	
Defendant-Appellee.	:	

CINDY BARTLETT,	:	APPEAL NO. C-190662
	:	TRIAL NO. A-1706599
Plaintiff-Appellant,	:	
vs.	:	
ABUBAKAR ATIQ DURRANI, M.D.,	:	
and	:	
CENTER FOR ADVANCED SPINE TECHNOLOGIES, INC.,	:	
and	:	

OHIO FIRST DISTRICT COURT OF APPEALS

WEST CHESTER HOSPITAL, LLC, :
and :
UC HEALTH, :
Defendants, :
and :
CHRIST HOSPITAL, :
Defendant-Appellee. :

LEONA BEYER, : APPEAL NO. C-190663
Plaintiff-Appellant, : TRIAL NO. A-1706604
vs. :
ABUBAKAR ATIQ DURRANI, M.D., :
and :
CENTER FOR ADVANCED SPINE :
TECHNOLOGIES, INC., :
and :
WEST CHESTER HOSPITAL, LLC, :
and :
UC HEALTH, :
Defendants, :
and :
CHRIST HOSPITAL, :
Defendant-Appellee. :

GERALD BOTNER, : APPEAL NO. C-190664
and : TRIAL NO. A-1706602

OHIO FIRST DISTRICT COURT OF APPEALS

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

DAVID CONGER, : APPEAL NO. C-190665
and : TRIAL NO. A-1700310
WILMA CONGER, : *JUDGMENT ENTRY.*
Plaintiffs-Appellants, :
vs. :
ABUBAKAR ATIQ DURRANI, M.D., :
and :
CENTER FOR ADVANCED SPINE :
TECHNOLOGIES, INC., :
:

and
WEST CHESTER HOSPITAL, LLC,
and
UC HEALTH,
and
JOURNEY LITE OF CINCINNATI,
LLC,
Defendants,
and
CHRIST HOSPITAL,
Defendant-Appellee.

We consider these appeals on the accelerated calendar, 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 five consolidated appeals concern the latest in a 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 five former patients of Durrani (and two of their spouses) who underwent various spinal surgeries at TCH. These surgeries took place between January 2006 and February 2009. The surgeries did not improve any of appellants’ conditions. On the contrary, appellants continued to experience constant pain after the surgeries. In September 2015 and August 2016, 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, and fraud.

In their sole assignment of error, appellants contend that the trial court erred in granting TCH's motions to dismiss under Civ.R. 12(B)(6). The motions to dismiss centered on an application of R.C. 2305.113(C), Ohio's four-year medical-malpractice statute of repose. Appellants' injuries arose from various spinal surgeries performed by Durrani between January 2006 and February 2009. But all of appellants' complaints were filed more than four years after the underlying surgery—the earliest complaint filed in September 2015.

Attempting to circumvent the statute of repose, appellants raise three separate issues under their assignment of error. Unfortunately for appellants, all of these issues have been squarely 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). We have repeatedly rejected similar attempts to characterize negligent-credentialing claims as nonmedical claims. *See Young v. Durrani*, 2016-Ohio-5526, 61 N.E.3d 34 (1st Dist.); *Crissinger v. Christ Hospital*, 2017-Ohio-9256, 106 N.E.3d 798 (1st Dist.); *McNeal v. Durrani*, 2019-Ohio-5351, 138 N.E.3d 1231, ¶ 19 (1st Dist.). We most recently visited the issue in *Couch v. Durrani*, 1st Dist. Hamilton Nos. C-190703, C-190704, C-190705, C-190706 and C-190707, 2021-Ohio-726 (holding that the Ohio Supreme Court's recent decision in *Evans v. Akron Gen. Med. Ctr.*, Slip Opinion No. 2020-Ohio-5535, does not affect our prior precedent and reaffirming our holding in *Young*).

Appellants also argue that their fraud claims are not “medical claims” as defined in R.C. 2305.113(E). We rejected this argument for substantially similar claims in *Freeman v. Durrani*, 2019-Ohio-3643, 144 N.E.3d 1067, ¶ 18-21 (1st Dist.), and *McNeal* at ¶ 18.

Finally, appellants urge us to craft a fraud or equitable-estoppel exception to the statute of repose. We have repeatedly rejected this invitation in the past and do the same here. *See Freeman* at ¶ 24; *Couch* at ¶ 27. “[A]ny claim of injustice or inequity must be resolved through the legislative process rather than judicial redress.” *State v. Vanzandt*, 142 Ohio St.3d 223, 2015-Ohio-236, 28 N.E.3d 1267, ¶ 16.

Because appellants filed their complaints more than four years after their respective surgeries and present no novel argument as to why R.C. 2305.113(C) should not apply, their claims are barred by the statute of repose. The trial court did not err in granting TCH’s motions to dismiss, and appellants’ sole assignment of error is overruled.

We accordingly 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:

Enter upon the journal of the court on March 26, 2021,
per order of the court _____.
Administrative Judge