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

HAILEY LANG,	:	APPEAL NOS. C-230218
		C-230219
Plaintiff-Appellant,	:	TRIAL NO. A-2003912
vs.	:	
CINCINNATI CHILDREN'S	:	*JUDGMENT ENTRY.*
HOSPITAL MEDICAL CENTER,	:	
RICHARD AZIZKHAN, M.D.,	:	
ALVIN CRAWFORD, M.D.,	:	
and	:	
ERIC WALL, M.D.,	:	
Defendants-Appellees,	:	
and	:	
ABUBAKAR ATIQ DURRANI, M.D.,	:	
Defendant.	:	

The court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Plaintiff-appellant Hailey Lang appeals the judgment of the trial court granting defendants-appellees Richard Azizkhan, M.D., Alvin Crawford, M.D., and Eric Wall, M.D.'s

(collectively "the Doctors") motion to dismiss her complaint under Civ.R. 12(B)(6).[1] Ms. Lang also appeals the trial court's judgment granting defendant-appellee Cincinnati Children's Hospital Medical Center's ("CCHMC") motion to dismiss.

Ms. Lang was born in 2000. In January 2006, her primary care physician referred her to defendant Abubakar Atiq Durrani, M.D., regarding a bone tumor. Dr. Durrani performed six surgeries on her between 2006 and 2009, including installation of a plate, which she alleges broke, and placement of a rod in her arm, which she alleges was performed negligently. She later alleged these and other surgeries were unnecessary and that other more conservative treatments were available. She further alleged Dr. Durrani's surgeries resulted in disabling injuries, great pain, and mental anguish.

Ms. Lang turned 18 years old in 2018. Dr. Durrani fled the country in November 2013. On November 6, 2020, Ms. Lang filed suit against Dr. Durrani, the Doctors, and CCHMC alleging various tort claims and statutory violations under Ohio law. The Doctors and CCHMC moved separately for dismissal of Ms. Lang's claims against them, which the trial court granted on statute of limitations grounds. She now appeals.

In three assignments of error, she argues, curiously, that the statute of repose (rather than the statute of limitations) is tolled against CCHMC, that her negligent credentialing and civil fraud claims were not medical claims subject to the statute of repose, and that the Doctors owed a fiduciary duty to her. In her opening brief, she never challenges the trial court's statute of limitations ruling. Only on reply does Ms. Lang characterize her assignments of error with reference to the statute of limitations grounds on which the trial court based its dismissal orders. Therefore, her arguments relevant to the trial court's orders are waived and we need not consider them in this appeal. *See City of Cincinnati v. Triton Servs.*, 1st Dist. Hamilton No. C-210475, 2022-Ohio-3832, ¶ 23 (holding that because

[1] Azizkhan was the Chief of Surgery at CCHMC and a member of the Medical Executive Committee, Crawford was the Orthopedic Director at CCHMC prior to 2005 and a surgeon there through 2008, and Wall was the Orthopedic Director at CCHMC.

appellant raised certain arguments "for the first time in its reply brief, which it could have raised before the trial court and in its appellate brief, we need not consider that argument."), citing *State ex rel. Am. Subcontractors Assn., Inc. v. Ohio State Univ.*, 129 Ohio St.3d 111, 2011-Ohio-2881, 950 N.E.2d 535, ¶ 40 ("[Relator's] new argument in its reply brief is forbidden."). Because Ms. Lang has not questioned the reasoning or decisions issued by the trial court, we have no occasion to second-guess them.

Accordingly, we overrule Ms. Lang's assignments of error and affirm the judgments of the trial court.

The court further orders that 1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App. R. 27.

BOCK, P.J., BERGERON and **KINSLEY, JJ.**

To the clerk:
Enter upon the Journal of the Court on 5/22/2024 per Order of the Court.

By:_____
       Administrative Judge