

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

JUDITH GARDNER, : APPEAL NO. C-240630  
and : TRIAL NO. A-1706493

ROGER GARDNER, :  
Plaintiffs-Appellants, :

vs. :

ABUBAKAR ATIQ DURRANI, M.D., :  
and :

CENTER FOR ADVANCED SPINE :  
TECHNOLOGIES, INC., :

Defendants-Appellees, :  
and :

WEST CHESTER HOSPITAL, LLC, :  
and :

UC HEALTH, INC., :  
Defendants. :

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MALIKA BONNER, Administrator of : APPEAL NO. C-240631  
the Estate of James Brown, Jr., : TRIAL NO. A-1706472  
deceased, :

Plaintiff-Appellant, :

vs. : *JUDGMENT ENTRY*

ABUBAKAR ATIQ DURRANI, M.D., :  
and :

CENTER FOR ADVANCED SPINE :  
TECHNOLOGIES, INC., :



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Appellants filed suit against Durrani, CAST, and related healthcare entities, alleging that the surgeries performed by Durrani were unnecessary. They asserted claims of fraud, negligence, battery, lack of informed consent, intentional infliction of emotional distress, and spoliation of evidence against Durrani, as well as other claims against the healthcare entities under various theories of vicarious and direct liability. The Gardners' complaint additionally asserted a claim for loss of consortium. In 2013, before Appellants' joint trial began, Durrani fled the United States and never returned.

Appellants' briefs describe how, during pretrial litigation, Appellants requested that the jury be able to consider Durrani's flight as probative evidence of his liability and that the trial court give the jury an instruction pertaining to his flight. According to the Appellants, the trial court refused both requests. Appellants further contend that, at trial, the trial court did not permit them to cross-examine Durrani's expert witness about Durrani's flight within the context of the truthfulness of Durrani's medical notes and records. Ultimately, the jury returned a verdict in favor of Durrani and CAST in both cases.<sup>1</sup>

Appellants now appeal to this court, asserting identical sole assignments of error. They argue that the trial court erred in refusing to include their requested jury instruction on Durrani's flight, to allow the jury to consider Durrani's flight as probative evidence of his liability, and to allow them to cross-examine Durrani's expert witness about Durrani's flight.

Without reaching the merits of these arguments, we overrule Appellants' assignments of error. Appellants allege that the trial court's errors are contained within a September 24, 2019 pretrial order and within the trial transcripts. However,

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<sup>1</sup> Prior to trial, the claims against defendants West Chester Hospital, LLC, and UC Health, Inc., were voluntarily dismissed.

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neither the referenced order nor the trial transcripts are part of the records before us on appeal.

Absent these documents (or an agreed statement in their stead, *see* App.R. 9(D)), we are unable to properly analyze Appellants’ claims, as their arguments rely on the trial court’s holdings and analyses within those documents. We accordingly must presume the regularity of the proceedings. *See Estate of Fite v. Univ. Hosp.*, 2004-Ohio-1266, ¶ 5 (1st Dist.) (“When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and has no choice but to presume the validity of the lower court’s proceedings.”); *State v. Cross*, 2024-Ohio-268, ¶ 10 (1st Dist.) (“In the absence of transcripts allowing appellate review of an assignment of error, we *must* presume the regularity of the proceedings below.” (Emphasis in original.)). In our previous opinions pertaining to similar assignments of error, we based our holdings upon the trial courts’ analyses within the record. *See, e.g., Hayes v. Durrani*, 2021-Ohio-725, ¶ 9 (1st Dist.) (“In rejecting Hayes’s argument, the trial court reasoned . . . .”); *id.* at ¶ 15 (“The trial court’s pretrial order prohibited . . . .”).

Here, we have no way of knowing how or why the trial court came to its decisions—or even what decisions it made. If we have no record from which to determine what the trial court’s rulings *were*, then we certainly cannot determine whether those rulings were in error, and, if so, whether those errors were prejudicial or harmless. “It is the appellant’s duty to ensure the completeness of the record on appeal.” *Malaj v. Abeid*, 2024-Ohio-2256, ¶ 46 (8th Dist.); *see also* App.R. 9(B)(1) (“[I]t is the obligation of the appellant to ensure that the proceedings the appellant considers necessary for inclusion in the record . . . . are transcribed in a form that meets the specifications of App.R. 9(B)(6).”). Appellants have failed to do so here. Therefore,

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we overrule Appellants' assignments of error and affirm the judgments of the trial court.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

**ZAYAS, P.J., CROUSE and NESTOR, JJ.**

**To the clerk:**

**Enter upon the journal of the court on 7/2/2025 per order of the court.**

**By:**

  
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**Administrative Judge**