

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

JESSICA COCHRAN ON BEHALF OF MINOR CHILD, J.C.G.,	:	APPEAL NO. C-250030 TRIAL NO. A-2304257
Plaintiff-Appellant,	:	
vs.	:	
RICHARD FALCONE, M.D.,	:	<i>JUDGMENT ENTRY</i>
IRENE ISABEL LIM-BEUTEL, M.D.,	:	
and	:	
CINCINNATI CHILDREN'S HOSPITAL MEDICAL CENTER,	:	
Defendants-Appellees.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, 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.

On March 10, 2023, plaintiff-appellant Jessica Cochran filed a complaint on behalf of her minor child, J.C.G., in the Hamilton County Court of Common Pleas against defendants-appellees Dr. Richard Falcone, Dr. Irene Isabel Lim-Beutel, and Cincinnati Children's Hospital Medical Center. The complaint set forth claims related to an allegedly defective surgical procedure.

On September 16, 2024, the trial court issued an amended scheduling order, which required that all expert reports be produced to opposing counsel by November 15, 2024. On September 11, Cochran disclosed that Dr. Colin Geoffrey Knight would

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serve as her expert, and that she would circulate Dr. Knight's report once prepared. On November 20, 2024, appellees filed a joint motion to strike Cochran's expert and moved for summary judgment. The motion alleged that Cochran had not shared Dr. Knight's report by the amended scheduling order deadline, and that in the absence of an expert report, she could not demonstrate that appellees breached the applicable standard of care. Cochran did not file a response.

On December 20, 2024, the trial court granted appellees' joint motion for summary judgment. On January 14, 2025, Cochran's counsel submitted a joint affidavit asserting that counsel never received appellees' motion for summary judgment. However, no motion for relief was attached to the affidavit. In response, appellees also submitted affidavits, from appellees' counsel and counsel's legal assistant, both refuting Cochran's affidavit.

This appeal followed.

To preface, we are not considering any of the parties' affidavits. Our review of Cochran's appeal is constrained to viewing the record at the time the court granted summary judgment for appellees. Because these affidavits were not before the court when it entered its judgment, we decline to consider them.

In her sole assignment of error, Cochran insists that the trial court erred in granting summary judgment without giving her a reasonable opportunity to respond. She claims that she was not properly served with the motion for summary judgment.

We review a trial court's grant of summary judgment *de novo*. *State ex rel. Ames v. Concord Twp. Bd. of Trustees*, 2025-Ohio-1027, ¶ 26. *De novo* review requires independent review of the record, affording no deference to the lower court's ruling. *Travelers Property Cas. Corp. v. Chiquita Brands Internatl., Inc.*, 2024-Ohio-1775, ¶ 17 (1st Dist.). Summary judgment is proper if there are no genuine issues of material

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fact, the movant is entitled to judgment as a matter of law, and the evidence, when viewed in a light most favorable to the nonmoving party, “permits only one conclusion that is adverse to that party.” *Marshall v. Mercy Health-Anderson Hosp., L.L.C.*, 2025-Ohio-1268, ¶ 8 (1st Dist.).

The movant has the initial burden of establishing the absence of any genuine issue of material fact. *Fincher v. State Farm Mut. Auto. Ins. Co.*, 2025-Ohio-1752, ¶ 19 (1st Dist.). If this burden is met, the nonmovant must come forward with specific facts showing there is a genuine issue for trial. *Id.* at ¶ 20.

This court has recognized that generally in a medical malpractice case, a plaintiff must “present expert testimony describing the prevailing standard of care, the defendants’ breach of that standard and causation.” *Gray v. Cincinnati Children’s Hosp. Med. Ctr.*, 2024-Ohio-3168, ¶ 42 (1st Dist.). In *Gray*, the plaintiff failed to timely disclose her expert and only did so in response to the defendant’s motion for summary judgment. *Id.* at ¶ 5, 28. “Where the complainant fails to provide such expert evidence, courts routinely grant summary judgment in favor of the hospital or physician.” *Id.* at ¶ 29, citing *Brielmaier v. Physicians Anesthesia Servs., Inc.*, 1989 Ohio App. LEXIS 1940, *3 (1st Dist. May 31, 1989). Because the plaintiff failed to timely disclose her expert, we affirmed the court’s grant of summary judgment. *Id.* at ¶ 42-43.

Like in *Gray*, here, Cochran’s failure to timely disclose her expert’s report warranted the trial court’s grant of summary judgment. Accordingly, Cochran’s sole assignment of error is overruled. The judgment of the trial court is affirmed.


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.

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KINSLEY, P.J., BOCK and MOORE, JJ.

To the clerk:

Enter upon the journal of the court on 8/27/2025 per order of the court.

By:  _____
Administrative Judge