

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

SHA-ANN ARNDTS,	:	APPEAL NO. C-250258
	:	TRIAL NO. A-2404950
Plaintiff-Appellant,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY</i>
UNIVERSITY OF CINCINNATI	:	
MEDICAL CENTER HOSPITALS,	:	
	:	
Defendant-Appellee.	:	

KINSLEY, Presiding Judge.

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.

Plaintiff-appellant Sha-ann Arndts appeals the trial court’s judgment dismissing her complaint against defendant-appellee University of Cincinnati Medical Center (“UCMC”)¹ under Civ.R. 12(B)(6) for failing to comply with the relevant statutes of limitations. We agree that Arndts failed to file the causes of action as alleged in her complaint within the relevant statutes of limitations, therefore, we affirm.

¹ According to UCMC, Arndts’s complaint incorrectly identifies UCMC as University of Cincinnati Medical Center/Hospitals.

Background

On November 6, 2024, Arndts filed a complaint against UCMC alleging that in July 2021, Arndts underwent surgery at UCMC and suffered complications that left her unable to be safely transported home. While Arndts was reviewing her discharge paperwork, UCMC staff allegedly assaulted Arndts by forcing her into a wheelchair for purposes of transporting her home. During this incident, staff allegedly hit and kicked her. Arndts alleged that UCMC staff eventually transferred her to another part of the hospital against her will. UCMC staff allegedly refused to give Arndts medical treatment and withheld lifesaving medicine from her. Arndts alleged that as a result of the July 2021 incident, she suffered bruises, cuts, a broken back, and other injuries. Arndts's complaint seeks monetary damages for her pain and suffering, and punitive damages.

UCMC filed a motion to dismiss Arndts's complaint. In its motion, UCMC argued that Arndts had filed a similar complaint in July 2023 in a different action based on the same allegations as the instant complaint. According to UCMC, the trial court in the separate action dismissed Arndts's July 2023 complaint without prejudice on November 13, 2023. As a result, UCMC argued that Arndts failed to bring her action within the one-year statute of limitations pertaining to medical malpractice actions, and that Arndts did not refile her complaint in the instant action within the one-year time period provided in the savings statute. Lastly, UCMC argued that Arndts failed to file an affidavit of merit with her complaint as required by Civ.R. 10(D)(2) in medical malpractice actions.

In response to UCMC's motion to dismiss, Arndts maintained that her complaint alleged a personal injury cause of action, which has a two-year statute of

limitations, and she did not allege a cause of action for medical malpractice, because she was no longer a patient at the time of the assault.

The trial court granted UCMC's motion to dismiss. The trial court determined that Arndts's complaint alleged causes of action for false imprisonment and assault in addition to medical malpractice, all of which have a one-year statute of limitations. The trial court also determined that Arndts could not rely on the savings statute because the July 2023 complaint she filed was also untimely. Therefore, the trial court determined that Arndts's claims were time-barred under the statutes of limitations.

Arndts appeals.

Law and Analysis

As an initial matter, we note that Arndts's appellate brief does not contain numbered assignments of error and instead contains six separate arguments identified as "A" through "F." For ease of reference, we will assign numerical value to each of Arndts's identified arguments.

Statute of Limitations

Arndts's first, fourth, fifth, and sixth assignments of error all ultimately challenge the trial court's decision to dismiss her complaint on statute of limitations grounds. In essence, Arndts's first assignment of error argues that the trial court erred in construing the allegations in her complaint as stating a cause of action for medical malpractice, which has a one-year statute of limitations, when the allegations in her complaint assert a cause of action for personal injury, which has a two-year statute of limitations. Arndts's fourth assignment of error asserts that the trial court erroneously dismissed her personal injury claim. In her fifth assignment of error, Arndts argues that the trial court erred in construing her allegations as asserting a claim for assault when the allegations supported her request for damages and not a separate cause of

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action. In her sixth assignment of error, Arndts argues that the trial court erred in applying the one-year statute of limitations for medical malpractice actions instead of the two-year statute of limitations for personal injury claims because UCMC was required to implement a plan to prevent workplace violence.

An appellate court conducts a de novo review of a trial court’s decision granting a motion to dismiss under Civ.R. 12(B)(6). *Martin v. Wegman*, 2019-Ohio-2935, ¶ 6 (1st Dist.). A motion to dismiss under Civ.R. 12(B)(6) based upon the failure to comply with the applicable statute of limitations “may be granted when the complaint shows conclusively on its face that the action is time-barred[,]” and “it must appear beyond doubt that the plaintiff can prove no set of facts in support of his or her claim that would entitle the plaintiff to relief.” *Doe v. Archdiocese of Cincinnati*, 2006-Ohio-2625, ¶ 11.

The trial court determined that Arndts’s complaint alleged causes of action for medical malpractice, assault, and false imprisonment, all of which have a one-year statute of limitations. See R.C. 2305.113 (medical malpractice); R.C. 2305.111(B) (assault); or R.C. 2305.11(A) (false imprisonment). Because Arndts’s complaint alleged that the incident at UCMC occurred in July 2021, and Arndts filed the instant complaint on November 6, 2024, Arndts filed her complaint outside the statutes of limitations.

On appeal, Arndts argues that the trial court erred because her complaint asserts a cause of action for personal injury, which has a two-year statute of limitations under R.C. 2305.10. Arndts also argues that UCMC must have a plan to prevent workplace violence, which would give rise to a personal injury cause of action.

As to Arndts’s argument that UCMC must implement a plan to prevent workplace violence under R.C. 3727.18, which permits her to bring a personal injury

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claim, Arndts failed to raise this argument before the trial court. “It is well settled that a party cannot raise issues for the first time on appeal.” *O’Brien v. Great Parks of Hamilton Cty.*, 2020-Ohio-6949, ¶ 29. Therefore, we do not address Arndts’s argument under R.C. 3727.18.

We agree with the trial court that Arndts’s complaint raises causes of actions for medical malpractice and/or intentional torts, and thus her complaint was time-barred by the statutes of limitations. Overall, Arndts’s complaint repeatedly refers to the July 2021 incident as an “assault” where staff hit her and kicked her. Arndts describes the actions of UCMC staff as “dangerous” and “premediated.” Arndts claims UCMC staff planned an assault on her with the help of an officer. After transporting her to another part of UCMC, Arndts alleges that staff withheld her medication, poisoned her, and held her against her will. Arndts alleges that UCMC held her to prevent her “from being able to tell the truth to another facility about what happened to her and to prevent her injuries from being documented and cared for by another facility.” These allegations would support causes of actions for medical malpractice or intentional torts, and not personal injury as a result of negligence. *See Love v. City of Port Clinton*, 37 Ohio St.3d 98, 98 (1988) (“When bodily injury results from negligence, the two-year statute of limitations, R.C. 2305.10, is the appropriate statute of limitations. However, when bodily injury results from an assault of battery, the one-year statute of limitations, R.C. 2305.111, is applicable.”).

Therefore, the trial court did not err in granting UCMC’s motion to dismiss Arndts’s complaint, and we overrule Arndts’s first, fourth, fifth, and sixth assignments of error.

Leave to Amend Complaint

In Arndts’s second assignment of error, she argues that the trial court erred in denying her leave to amend the complaint.

Civ.R. 15(A) permits a party to amend its pleading by leave of court after the 28-day timeframe has passed. A trial court has discretion to determine whether to allow a party to amend a pleading. *Meehan v. Mardis*, 2022-Ohio-1379, ¶ 4 (1st Dist.).

Arndts requested leave to amend her complaint at the trial court’s hearing on UCMC’s motion to dismiss. After the trial court questioned Arndts as to whether her complaint alleged claims for medical malpractice and intentional torts, Arndts insisted that her complaint alleged claims for personal injury, because she was not a patient at the time of the event. Arndts requested leave to amend her complaint to resolve any doubt as to the nature of her claims.

Arndts has failed to articulate how an amendment to her complaint would change the underlying nature of her causes of action. Arndts continues to refer to the July 2021 incident as an assault where the UCMC staff abused her, which is inconsistent with personal injury as a result of negligence. Therefore, the trial court did not abuse its discretion in denying Arndts leave to file an amended complaint to clearly state a personal injury cause of action.

We overrule Arndts’s second assignment of error.

Affidavit of Merit

In Arndts’s third assignment of error, she argues that the trial court erred in dismissing her complaint for failure to file an affidavit of merit in accordance with Civ.R. 10(D)(2).

Civ.R. 10(D)(2) states that a “complaint that contains a medical claim * * * as defined in R.C. 2305.113, shall be accompanied by one or more affidavits of merit

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relative to each defendant named in the complaint for whom expert testimony is necessary to establish liability.”

In its entry dismissing Arndts’s complaint, the trial court did not reach UCMC’s argument that Arndts’s complaint should be dismissed for failure to file an affidavit of merit, and instead the trial court dismissed Arndts’s complaint on statutes of limitations grounds. As a result, Arndts cannot show that the trial court erred or that any error caused her prejudice. *See* Civ.R. 61; *Back v. Faith Properties*, 2002-Ohio-6107, ¶ 16 (12th Dist.) (“[I]n order for a trial court’s error to be reversible error, appellant must show prejudice as a result of the error.”).

We overrule Arndts’s third assignment of error.

Conclusion

Having overruled Arndts’s six assignments of error, we affirm the judgment 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.

NESTOR and MOORE, JJ., concur.

To the clerk:

Enter upon the journal of the court on 11/5/2025 per order of the court.

By:  _____
Administrative Judge