STATE OF MICHIGAN

COURT OF APPEALS

DORA TALBOT,

Plaintiff-Appellant,

v

IRWIN SMALL, D.D.S.,

Defendant-Appellee.

UNPUBLISHED
December 1, 1998

No. 205478
Oakland Circuit Court
LC No. 95-504991 NH

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiff Dora Talbot appeals of right from the circuit court order granting the motion for summary disposition filed by defendant Irwin Small, D.D.S. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On August 19, 1992 defendant performed a dental implant procedure on plaintiff. On September 26, 1995 plaintiff filed a complaint alleging that defendant committed malpractice by injuring a nerve during the procedure, thereby causing permanent numbness to her lip and chin. Plaintiff alleged that defendant fraudulently assured her that the numbness would disappear over time. Defendant moved for summary disposition pursuant to MCR 2.116(C)(7), arguing that the claim had not been filed within two years after it accrued, as required by MCL 600.5805(4); MSA 27A.5805(4), and that the six-month discovery rule provided for in MCL 600.5838a(2); MSA 27A.5838(1)(2) was inapplicable because the evidence showed that plaintiff was aware of a possible cause of action almost immediately after the surgery.

The trial court granted defendant's motion, finding that because the evidence showed that plaintiff discovered the existence of her claim within the limitations period, the original limitations period was not extended by the six-month discovery rule. This Court reviews de novo a trial court's decision on a motion for summary disposition. *Smith v YMCA of Benton Harbor/St. Joseph*, 216 Mich App 552, 554; 550 NW2d 262 (1996).

Plaintiff argues that she did not discover nor could she have discovered her claim within the applicable two-year limitations period because defendant and his associate fraudulently told her that the

numbness would disappear over time. While she was aware of the numbness immediately after the surgery, she was not aware of any wrongdoing because defendant and his associate fraudulently allayed her suspicions. See, e.g., *Leary v Rupp*, 89 Mich App 145, 149; 280 NW2d 466 (1979). Plaintiff contends that she could not have discovered her claim until she spoke with her attorney because she had been misled.

We affirm the trial court's ruling. Once a plaintiff is aware of an injury and the possible cause of that injury, the plaintiff is equipped with the knowledge necessary to diligently pursue a claim for malpractice. *Solowy v Oakwood Hosp Corp*, 454 Mich 214, 221-223; 561 NW2d 843 (1997). The general two-year limitations period for malpractice actions, MCL 600.5805(4); MSA 27A.5805(4), is subject to the six-month discovery exception. MCL 600.5838a(2); MSA 27A.5838(1)(2). The six-month rule cannot hold a cause of action in abeyance indefinitely. *Turner v Mercy Hospitals & Health Services of Detroit*, 210 Mich App 345, 353; 533 NW2d 365 (1995). A claimant must take diligent steps to discover a cause of action and cannot simply wait for others to inform him or her of the existence of a cause of action. *Id.* Plaintiff acknowledged that she felt the numbness immediately after the surgery, and that at that time she believed that defendant might have done something wrong. At that time, a point well within the two-year period, plaintiff knew or should have known of a possible cause of action. See *Solowy*, *supra*.

Plaintiff's reliance on the fraudulent concealment doctrine, MCL 600.5855; MSA 27A.5855, is misplaced. Defendant's associate was not named a party defendant. Moreover, the record shows that defendant told plaintiff that she should wait six months to one year after surgery to determine if the numbness would disappear. Defendant did not conceal the fact that numbness heals over time. The numbness did not heal after this period; therefore, at that point at the latest, plaintiff was or should have been aware of a possible cause of action. Because this point fell within the original two-year limitations period, the six-month discovery rule did not apply in this case.

Affirmed.

/s/ David H. Sawyer
/s/ Myron H. Wahls
/s/ Joel P. Hoekstra