

STATE OF MICHIGAN
COURT OF APPEALS

BARBARA BLAMER,

Plaintiff-Appellant,

V

DR. HERNAN LEONES GUIANG, M.D., and
MERCY HEALTH SERVICES,

Defendants-Appellees.

UNPUBLISHED

September 20, 2002

No. 231478

Muskegon Circuit Court

LC No. 00-040284-NH

Before: Murphy, P.J., and Hood and Murray, JJ.

Per Curiam

Plaintiff appeals as of right from an order granting summary disposition in favor of defendants. We affirm.

On July 16, 1998, defendant doctor changed plaintiff's medication from Procardia to Diovan. On July 30, 1998, plaintiff telephoned defendant doctor's office and reported flu-like symptoms, a reaction to the Diovan. Defendant doctor instructed plaintiff to discontinue the medication for one week, then resume taking the medication. On August 7, 1998, after resuming the medication, plaintiff was hospitalized after suffering a severe reaction. Plaintiff filed a complaint alleging medical malpractice on August 2, 2000. The trial court granted defendants' motion for summary disposition based on the statute of limitations.

Plaintiff alleges that the trial court erred in granting defendants' motion for summary disposition because there was sufficient evidence to demonstrate that the cause of action accrued on August 7, 1998, the date she resumed the medication. We disagree. An appellate court reviews the grant or denial of a motion for summary disposition de novo to determine if the moving party was entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). In the absence of disputed facts, whether a cause of action is barred by the statute of limitations is a question of law for the trial judge. *Solowy v Oakwood Hospital Corp*, 454 Mich 214, 230; 561 NW2d 843 (1997). Generally, a plaintiff in a medical malpractice case must bring a claim within two years of the claim's accrual or within six months of the discovery of the claim. MCL 600.5805(4). Medical malpractice claims accrue "at the time of the act or omission that is the basis for the claim of medical malpractice, regardless of the time the plaintiff discovers or otherwise has knowledge of the claim." MCL 600.5838(a)(1). *Solowy*, *supra* at 220. Plaintiff's claim accrued on July 30, 1998. See *McKinney v Clayman*, 237 Mich App 198, 207; 602 NW2d 612 (1999). Plaintiff's attempt to extend the statute of limitations

period based on a “continuing wrong” theory is without merit. This Court declined to extend the continuing violations doctrine or continuing wrongful acts doctrine to negligence claims. *Traver Lakes Community Maintenance Ass’n v Douglas Co*, 224 Mich App 335, 341; 568 NW2d 847 (1997). Furthermore, the *Traver* Court noted that the continuing violations doctrine was established by “continual tortuous acts, not by continual harmful effects from an original, completed act.” *Id.* at 340-341. Even assuming that the continuing wrong acts doctrine applied to medical malpractice claims, plaintiff merely alleged continued harmful effects from the original act. Accordingly, the trial court properly granted defendants’ motion for summary disposition.

Affirmed.

/s/ Harold Hood

/s/ Christopher M. Murray