

STATE OF MICHIGAN
COURT OF APPEALS

RUEL FILES, Personal Representative of the
Estate of MARTHA LEE, Deceased,

Plaintiff-Appellant,

v

SINAI-GRACE HOSPITAL and DETROIT
MEDICAL CENTER,

Defendants-Appellees,

and

FOUR JOHN DOES,

Defendants.

UNPUBLISHED
November 1, 2002

No. 233827
Wayne Circuit Court
LC No. 00-029347-NH

Before: Hoekstra, P.J., and Wilder and Zahra, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order dismissing her complaint for failure to file an affidavit of merit that complied with MCL 600.2912d(1). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A plaintiff filing a medical malpractice action is required to file “an affidavit of merit signed by a health professional who the plaintiff’s attorney reasonably believes meets the requirements for an expert witness under section 2169.” MCL 600.2912d(1). Section 2169 requires that an expert be licensed as a health professional. If the party against whom he testifies is a specialist, the expert must specialize in the same field. If the party against whom he testifies is a board-certified specialist, the expert must be board-certified in the same specialty. MCL 600.2169(1)(a). In addition, the expert must devote the majority of his professional time to the practice or teaching of the same health profession or specialty as practiced by the party against whom he testifies. MCL 600.2169(1)(b), (c).

Plaintiff filed an affidavit of merit from a board-certified internist, Arnold Markowitz, who opined that the hospital staff in general were negligent for failing to diagnose and treat Lee’s urinary tract infection. Although plaintiff sued only the hospital and its parent corporation, his expert must still meet the requirements of § 2169 as to each individual health professional

alleged to have rendered negligent treatment. *Nippa v Botsford General Hosp*, __ Mich App __; __ NW2d __ (2002); *Tobin v Providence Hosp*, 244 Mich App 626, 660 n 16, 671; 624 NW2d 548 (2001).

The John Does alleged to be at fault were subsequently identified as two surgeons and a urologist. Because plaintiff never alleged that an internist in defendants' employ was responsible for diagnosing and treating Lee's condition, plaintiff's counsel could not have reasonably believed that Markowitz's affidavit complied with the statutory requirements. Therefore, the trial court did not abuse its discretion in dismissing plaintiff's complaint. *Vincencio v Jaime Ramirez, MD, PC*, 211 Mich App 501, 506; 536 NW2d 280 (1995).

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra