

STATE OF MICHIGAN
COURT OF APPEALS

SANDRA CAMPINS,

Plaintiff-Appellant,

v

SPECTRUM HEALTH DOWNTOWN CAMPUS,

Defendant-Appellee.

UNPUBLISHED
September 9, 2004

No. 247024
Kent Circuit Court
LC No. 02-002131-NO

Before: Donofrio, P.J. and White and Talbot, JJ.

MEMORANDUM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition and dismissing this case with prejudice. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was treated at defendant's facility for a broken pubic bone. She filed suit alleging that defendant's employee acted negligently in assisting her in moving from the bathroom to her bed, in dealing with her port-a-cath, and in administering a heparin treatment to her in her vehicle. Defendant moved for summary disposition pursuant to MCR 2.116(C)(7), (8), and (10), arguing that plaintiff's claim was actually one for medical malpractice, that she failed to file a notice of intent and affidavit of merit as required by MCL 600.2912b and MCL 600.2912d(1), and that upon dismissal of the complaint, plaintiff's claim would be barred by the statute of limitations. MCL 600.5805(6). The trial court granted the motion, finding that plaintiff's injury occurred during the course of her professional relationship with defendant.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

The key to whether a claim sounds in medical malpractice is whether the negligence occurred within the course of a professional relationship in which medical treatment was rendered. Whether a claim sounds in medical malpractice depends on whether the facts alleged raise issues that are within common knowledge and experience or raise questions involving medical judgment. *Dorris v Detroit Osteopathic Hosp Corp*, 460 Mich 26, 46-47; 594 NW2d 455 (1999); *Regalski v Cardiology Assocs, PC*, 459 Mich 891; 587 NW2d 502 (1998).

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition. She asserts that in this case, as in *Gold v Sinai Hosp*, 5 Mich App 368; 146 NW2d

723 (1966), *Fogel v Sinai Hosp*, 2 Mich App 99; 138 NW2d 503 (1965), and *DiGiovanni v St. John Health System*, unpublished opinion per curiam of the Court of Appeals, issued October 30, 1998 (Docket No. 200398), the allegations presented issues within common knowledge and experience, and that a jury would not need expert testimony to assist it in determining that defendant's employee acted negligently. We disagree and affirm. The acts that formed the basis of plaintiff's complaint occurred in the context of plaintiff's professional relationship with defendant. Plaintiff was hospitalized for treatment of a broken pubic bone. The act of assisting a patient in plaintiff's condition in moving required training and the exercise of medical judgment to minimize discomfort and to guard against further injury. The acts of tending to a port-a-cath and administering a heparin treatment required training and the exercise of medical judgment. The trial court correctly concluded that *Dorris, supra*, controlled, and that plaintiff's complaint sounded in medical malpractice. Summary disposition was proper. MCL 600.5805(6).

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot