

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1251

KATHERINE M. LEWIS,

Plaintiff - Appellant,

v.

JEREMY P. WALETZKY,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:07-cv-02154-PJM)

Argued: March 23, 2010

Decided: April 24, 2012

Before NIEMEYER and SHEDD, Circuit Judges, and James A. BEATY, Jr., Chief District Judge for the Middle District of North Carolina, sitting by designation.

Affirmed by unpublished per curiam opinion.

ARGUED: Paul McCourt Curley, CANFIELD, BAER, HELLER, LLP, Richmond, Virginia, for Appellant. H. Kenneth Armstrong, ARMSTRONG, DONAHUE, CEPPOS & VAUGHAN, CHTD, Rockville, Maryland, for Appellee. **ON BRIEF:** Erica C. Mudd, ARMSTRONG, DONAHUE, CEPPOS & VAUGHAN, CHTD, Rockville, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Katherine Lewis appeals from the dismissal of her complaint and from the subsequent denial of her motion to reconsider. Relying on the public policy exception to the lex loci delicti doctrine, the district court applied Maryland law and dismissed the complaint without prejudice because Lewis failed to comply with the mandatory filing requirements of Maryland's Health Care Malpractice Claims Act ("the Act"). See Md. Code Ann., Cts. & Jud. Proc., §§ 3-2A-01, et seq.

In our prior order, we certified to the Court of Appeals of Maryland the following question:

Does Maryland recognize the public policy exception, or any other exception, to lex loci delicti based on the Maryland Health Care Malpractice Claims Act, see Md. Code Ann., Cts. & Jud. Proc., §§ 3-2A-01, et seq., which requires a plaintiff to comply with certain mandatory administrative filings prior to filing a medical malpractice lawsuit in a Maryland court?

Lewis v. Waletzky, 2010 WL 1734976 (4th Cir. 2010).

The Court of Appeals of Maryland has now published an opinion in response to our certified question. That court held that although the doctrine of lex loci delicti does not apply under the circumstances presented in this case, "the filing requirements at issue are procedural, mandating application of those requirements under Maryland choice-of-law principles, as the law of the forum." Lewis v. Waletzky, 422 Md. 647, 667 (Md.

2011). Therefore, the Court of Appeals of Maryland found that Lewis must "comply with the Act's filing requirements." Id.

Based on the published opinion of the Court of Appeals of Maryland, Lewis's claim fails as a matter of law because she was required to comply with the mandatory requirements of the Act and she did not do so. Accordingly, we affirm the district court's orders dismissing the complaint and denying the motion for reconsideration. See MM ex rel. DM v. School Dist. of Greenville Cty., 303 F.3d 523, 536 (4th Cir. 2002)("[W]e are entitled to affirm the court's judgment on alternate grounds, if such grounds are apparent from the record.").

AFFIRMED