

FILED
 U.S. DISTRICT COURT
 DISTRICT OF MARYLAND
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
 2017 MAR 3 36

MERCY DEWS AND IAN DEWS

v.

UNITED STATES OF AMERICA

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CLERK'S OFFICE
AT BALTIMORE

BY _____

DEPUTY

Civil No. - JFM-16-3980

MEMORANDUM

Plaintiffs have brought this action for medical malpractice under the Federal Tort Claims Act. Defendant has filed a motion to dismiss. The motion will be granted.

Plaintiffs timely filed an administrative claim to the Navy. The Navy mailed notice of final denial of the claim to plaintiffs' counsel of record on April 20, 2016. Although plaintiffs filed an action in the Health Claims Alternative Dispute Resolution Office on October 5, 2016, plaintiffs did not file their action in this court until December 13, 2016. This is nearly two months after the six-month deadline established by 28 U.S.C. §2401(b).

This case is governed by the Fourth Circuit's decision in *Raplee v. United States*, 842 F.3d 328 (4th Cir. 2016). Plaintiffs attempt to rely upon the equitable tolling principle but the reliance is misplaced in light of the fact that the law in this district was clearly that an action must be filed in this court within the six month limitation period prior to the Fourth Circuit's decision in *Raplee*. See *Lucas v. United States*, No. 16-1539, 2016 WL 6871912, at *2 (4th Cir. Nov. 22, 2016); *Horsey v. United States*, No. ELH-14-03844, 2015 WL 1566238, at *5 (D. Md. April 7, 2015); *Raplee v. United States*, No. PWG-13-1318, (D. Md. Feb. 11, 2014).

A separate order granting defendant's motion to dismiss is being entered herewith.

Date: April 24, 2017

J. Frederick Motz
J. Frederick Motz
United States District Judge