

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DEBORAH J. SUMNER and
CLARENCE A. SUMNER,

Appellants,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NOS. 1D06-0256/06-2039
(CONSOLIDATED)

BERNARD J. GROS, M.D. and
CARDIOLOGY ASSOCIATES OF
GAINESVILLE,

Appellees.

Opinion filed June 5, 2007.

Appeals from the circuit court for Bradford County.
Elzie S. Sanders and David A. Glant, Judges.

Susan B. Morrison of Law Offices of Susan B. Morrison, P.A., Tampa, Mac A. Greco, Jr., of Mac A. Greco, Jr., P.A., Tampa, and Michael J. Trentalange of Trentalange & Kelly, P.A., Tampa, for Appellants.

Brian D. Stokes of The Unger Law Group, P.L., Orlando, for Appellees.

PER CURIAM.

Appellants seek review of final orders dismissing with prejudice count IV of their third amended complaint for failure to state a cause of action, and awarding

attorneys' fees to appellees pursuant to section 57.105, Florida Statutes (2005). The propriety of the trial court's dismissal is a pure question of law as to which our standard of review is de novo. E.g., City of Gainesville v. State Dep't of Transp., 778 So. 2d 519, 522 (Fla. 1st DCA 2001). Our review must also treat all well-pleaded allegations as true, and limit itself to the four corners of the complaint. E.g., Gowan v. Bay County, 744 So. 2d 1136, 1138 (Fla. 1st DCA 1999). Having thus examined count IV of the third amended complaint, we are satisfied that it sufficiently alleges all of the elements of a cause of action for medical negligence, including the existence of a doctor-patient relationship. Accordingly, the trial court erred when it concluded otherwise. Whether appellants can prove the allegations of their cause of action is irrelevant for purposes of this appeal. Because it was error to dismiss count IV of the third amended complaint, it was likewise error to award attorneys' fees pursuant to section 57.105.

The trial court's orders dismissing count IV of appellants' third amended complaint and awarding attorneys' fees to appellees are reversed, and the case is remanded to the trial court for further proceedings consistent with this opinion.

REVERSED and REMANDED, with directions.

ALLEN, WEBSTER, and BENTON, JJ., CONCUR.