

KATHY MITCHELL, WIFE OF/AND
LAWRENCE MITCHELL

NO. 07-CA-630

VERSUS

FIFTH CIRCUIT

KENNER REGIONAL MEDICAL CENTER,
DR. MICHAEL BROTHERS, DR. DAVID
KASTL AND DR. BAHRAM ZAMANIAN

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 560-749, DIVISION "J"
HONORABLE STEPHEN J. WINDHORST, JUDGE PRESIDING

**COURT OF APPEAL,
FIFTH CIRCUIT**

February 6, 2008

FILED FEB - 6 2008

**EDWARD A. DUFRESNE, JR.
CHIEF JUDGE**



Panel composed of Judges Edward A. Dufresne, Jr., Clarence E. McManus,
and Fredericka Homberg Wicker

LAWRENCE D. WIEDEMANN
Attorney at Law
821 Baronne Street
New Orleans, Louisiana 70113
COUNSEL FOR PLAINTIFF/APPELLANT

HARVEY J. GODOFSKY
Attorney at Law
One Galleria Boulevard
Suite 700
Metairie, Louisiana 70001
COUNSEL FOR DEFENDANT/APPELLEE

AFFIRMED

CEAD
CEN
FNW

This is an appeal by Kathy Mitchell, wife of/and Lawrence Mitchell, plaintiffs-appellants, from as summary judgment in favor of Dr. Bahram Zamanian, defendant-appellee, in this medical malpractice action. For the following reasons we affirm the judgment.

The facts of this case are set forth in *Mitchell v. Kenner Regional Medical Center*, 06-620 (La. App. 5 Cir. 1/30/07), 951 So.2d 1193, and therefore need not be repeated in detail here. We do however note the following particulars which are relevant to this appeal.

Lawrence Mitchell, plaintiff, was seen by Dr. Bahram Zamanian at Kenner Regional for an apparent heart attack. An angiogram and coronary catheterization were scheduled for the next day. There was a three and one-half hour delay in the procedures until 4:45 p.m., and during the surgery a coronary artery splintered

necessitating an emergency bypass procedure. The bypass was performed at 7:25 p.m.

Plaintiff brought this medical malpractice claim against various health care providers, including Kenner Regional and Dr. Zamanian. His theory of the case is as follows. Kenner Regional has a policy in effect which requires all doctors performing coronary catheterizations to notify a standby surgical crew of the impending procedure, and verify that there is an operating room available in the event it is needed. He alleges that this was not done and that there was a consequent delay in performing the bypass surgery which resulted in irreparable damage to his heart.

A medical review panel concluded that none of the defendants committed any acts which fell below the proper standard of medical care. It also concluded that “The time frame as to when the emergency was declared and the [bypass] surgery was begun was appropriate with an excellent result.”

Kenner Regional urged a motion for summary judgment and attached thereto the report of the medical review panel. Plaintiff opposed the motion, but did not present any competent expert testimony to refute the conclusions of the panel. Summary judgment was entered in favor of the hospital, and that judgment was affirmed on appeal in *Mitchell v. Kenner Regional Hospital, supra*. In that opinion this court specifically rejected plaintiff’s theory that the alleged failure to notify a surgical standby team and to have an operating room ready caused him any injury.

In the present matter, plaintiff has again urged his theory of damages due to delay, but he has still not presented any further expert opinion to refute the contrary conclusions of the medical review panel. In these circumstances and for the reasons expressed in *Mitchell v. Kenner Regional Medical Center, supra*, we again find that plaintiff has not come forward with evidence that would establish

his case at trial, and therefore that Dr. Zamanian's motion for summary judgment was properly granted.

AFFIRMED

EDWARD A. DUFRESNE, JR.
CHIEF JUDGE

THOMAS F. DALEY
MARION F. EDWARDS
SUSAN M. CHEHARDY
CLARENCE E. McMANUS
WALTER J. ROTHSCHILD
FREDERICKA H. WICKER
GREG G. GUIDRY

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

PETER J. FITZGERALD, JR.
CLERK OF COURT

GENEVIEVE L. VERRETTE
CHIEF DEPUTY CLERK

MARY E. LEGNON
FIRST DEPUTY CLERK

TROY A. BROUSSARD
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

**NOTICE OF JUDGMENT AND
CERTIFICATE OF MAILING**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN MAILED ON OR DELIVERED THIS DAY **FEBRUARY 6, 2008** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

PETER J. FITZGERALD, JR.
CLERK OF COURT

07-CA-630

Lawrence D. Wiedemann
Attorney at Law
821 Baronne Street
New Orleans, LA 70113

Harvey J. Godofsky
Attorney at Law
One Galleria Boulevard
Suite 700
Metairie, LA 70001