

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 CA 1028

TIANYA SPIEWAK

VERSUS

DR. STERLING E. SIGHTLER, DR. PHILLIP A. BARKSDALE AND
WOMAN'S HOSPITAL

Judgment Rendered: FEB 14 2014



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On Appeal from the
19th Judicial District Court,
In and for the Parish of East Baton Rouge,
State of Louisiana
Trial Court No. 605,228

Honorable R. Michael Caldwell, Judge Presiding

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Tianya Spiewak
Baton Rouge, LA

Plaintiff-Appellant,
In Proper Person

Mary H. Thompson
Baton Rouge, LA

Attorney for Defendant-Appellee
Woman's Hospital Foundation

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BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

HIGGINBOTHAM, J.

In this medical malpractice case, the trial court granted a motion for summary judgment filed by the defendant, Woman's Hospital Foundation, on the grounds that plaintiff, Tianyna Spiewak, failed to produce expert testimony raising issues of material fact.¹ Plaintiff now appeals.

To prove her case of medical malpractice, plaintiff must establish the applicable standard of care, a breach of that standard of care, and that the substandard care caused an injury the plaintiff otherwise would not have suffered. As a matter of law, an expert witness is generally necessary to meet that burden of proof. Although there are exceptions in instances of obvious negligence, those exceptions are limited to instances in which the medical and factual issues are such that a lay jury can perceive negligence in the hospital's conduct as well as any expert can. This requirement of producing expert medical testimony is especially apt when the defendant has filed a motion for summary judgment and supported such motion with expert opinion evidence that the treatment met the applicable standard of care. **Lieux v. Mitchell**, 2006-0382 (La. App. 1st Cir. 12/28/06), 951 So.2d 307, 314-315, writ denied, 2007-0905 (La. 6/15/07), 958 So.2d 1199.

Ms. Spiewak claims that Woman's Hospital failed to provide adequate follow-up care and failed to maintain adequate medical records documenting her condition. In support of its motion for summary judgment, Woman's Hospital relied on the medical review panel's opinion that there was no deviation from the appropriate standard of care. Woman's Hospital also offered Ms. Spiewak's

¹ Ms. Spiewak also filed suit against Dr. Sterling Sightler and Dr. Phillip Barksdale. Doctors Sightler and Barksdale filed motions for summary judgment which were granted in one judgment. That judgment is the subject of a related appeal. **Tianya Spiewak v. Dr. Sterling E. Sightler**, 2013 CA 1027 (La. App. 1st Cir. 2/14/14). Ms. Spiewak addressed the summary judgment granted in favor of Woman's Hospital in her brief filed in 2013 CA 1027 and the summary judgment against Dr. Sightler and Dr. Barksdale in 2013 CA 1028. Although we recognized her error, we considered her briefs for the appropriate appeal number. Woman's Hospital's motion to dismiss appeal and or alternative motion to strike based on Ms. Spiewak's error, which was referred to this panel, is denied.

extensive medical records, which included highly technical medical information beyond common knowledge of persons not trained in medicine.

After *de novo* review of the record, we find that the evidence supporting the motion for summary judgment shows an absence of support for an essential element of plaintiff's claim, *i.e.*, that Woman's Hospital breached the applicable standard of care in its follow-up care of Ms. Spiewak or in failing to maintain adequate medical records.

We further find that this is a medically-complex case and not a case in which the jury could perceive negligence as well as any expert. Expert medical testimony is necessary to support Ms. Spiewak's claims. Ms. Spiewak failed to produce factual evidence sufficient to establish that she would be able to satisfy her evidentiary burden at trial.

Considering the foregoing, the trial court's judgment granting summary judgment is affirmed. Costs of this appeal are assessed to plaintiff, Ms. Tianya Spiewak. This memorandum opinion is issued in compliance with Uniform Rules of Louisiana Courts of Appeal, Rule 2-16.1B.

AFFIRMED.