

STATE OF MICHIGAN
COURT OF APPEALS

Theresa A. Stephens-Lock, Personal
Representative of the Estate of Virginia
Louise Stephens, Deceased,

UNPUBLISHED
July 12, 2002

Plaintiff-Appellant,

v

Anup Sud, M.D., and Hurley Medical
Center,

No. 230726
Genesee Circuit Court
LC No. 00-068389-NH

Defendants-Appellees.

Before: Hood, P.J., Saad and E. M. Thomas*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court's order dismissing her medical malpractice action based upon the statute of limitations. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff argues that the circuit court erred by refusing to find defendants estopped from raising the statute of limitations as a defense. We find no error. The record shows nothing suggesting that defendants made any false representations, concealed material facts, or otherwise engaged in deceptive conduct which somehow induced plaintiff into believing she did not need to re-file her complaint within the remaining portion of the limitations period. Any failure to timely file the complaint was due to the oversight of plaintiff's counsel rather than any misleading conduct by defendants or their counsel. Defendants were not estopped from asserting the statute of limitations as a defense. *Lothian v City of Detroit*, 414 Mich 160, 176; 324 NW2d 9 (1982).

Affirmed.

/s/ Harold Hood
/s/ Henry William Saad
/s/ Edward M. Thomas

* Circuit judge, sitting on the Court of Appeals by assignment.