[Cite as *Wells v. Ohio State Univ. Wexner Med. Ctr.*, 2024-Ohio-721.]

IN THE COURT OF CLAIMS OF OHIO

RODNEY WELLS Plaintiff v. OHIO STATE UNIVERSITY WEXNER MEDICAL CTR Defendant	Case No. 2023-00608AD Deputy Clerk Holly True Shaver MEMORANDUM DECISION

{¶1} Rodney Wells ("plaintiff") filed a complaint against defendant, Ohio State University Wexner Medical Center ("OSUWMC"). Plaintiff related on September 8, 2023, at defendant's ENT surgery hospital, he was under anesthesia when an OSUWMC staff member removed his breathing tube and broke a dental crown off his front tooth. Plaintiff seeks damages in the amount of $2,025.00. Plaintiff stated that he has dental insurance with Cigna and his policy has a $1,000.00 deductible.

{¶2} Defendant submitted an investigation report denying liability in this matter. Defendant stated that a pre-operative evaluation was performed to evaluate plaintiff for surgery, including an assessment of plaintiff's oral cavity. Defendant attached an affidavit from the OSUWMC anesthesiologist who performed this evaluation. The affidavit states that the anesthesiologist determined that general anesthesia would be appropriate for plaintiff's surgery and that the anesthesiologist then discussed some of the complications of general anesthesia, including dental injury. Plaintiff signed an informed consent for general anesthesia which defendant attached to its investigation report. Defendant admitted that plaintiff's crown came loose during the surgery. Defendant stated that OSUWMC employees informed plaintiff of the dislodgement and reinforced that dental injuries can be unavoidable with anesthesia. An OSU dental resident re-cemented the crown but informed plaintiff that he would need to see his dentist as soon as possible. Defendant asserted that plaintiff has failed to establish a claim for medical malpractice

because he did not file an affidavit of merit from a qualified physician and this claim does not fall under the common knowledge exception.

{¶3} "In order to establish medical malpractice, the plaintiff must prove * * * that the injury complained of was proximately caused by medical care or treatment that fell below the recognized standards of medical care in the community. *Bruni v. Tatsumi* (1976), 46 Ohio St.2d 127, 131-132, 346 N.E.2d 673." *Kester v. Brakel*, 10th Dist. Franklin No. 06AP-253, 2007-Ohio-495, ¶ 26. Plaintiff must prove causation through medical expert testimony. *Roberts v. Ohio Permanente Med. Group*, 76 Ohio St.3d 483, 485, 668 N.E.2d 480. When a plaintiff is alleging substandard medical treatment, expert medical opinion must be provided to establish a prima facie case. Plaintiff may not simply rest upon allegations of medical negligence as stated in his complaint. See *Saunders v. Cardiology Consultants, Inc.,* 66 Ohio App.3d 418, 584 N.E.2d 809 (1st Dist. 1990); *Hoffman v. Davidson*, 31 Ohio St.3d 60, 61, 508 N.E.2d 958 (1987); *Guth v. Huron Road Hosp.*, 43 Ohio App.3d 83, 84, 539 N.E.2d 670 (8th Dist. 1987). In the present claim, plaintiff has failed to produce expert medical opinion regarding his allegation that OSUWMC negligently caused his crown to fall out.

{¶4} The exception to that rule is "in cases where the nature of the case is such that the lack of skill or care of the physician and surgeon is so apparent as to be within the comprehension of laymen and requires only common knowledge and experience to understand and judge it." *Bruni* at 130. However, the exception is limited in scope and "[r]elatively few courts in Ohio have found the common knowledge exception applicable so as to obviate the need for expert witness testimony on the malpractice issue." *Buerger v. Ohio Dept. of Rehab. & Corr.*, 64 Ohio App.3d 394, 399, 581 N.E.2d 1114 (10th Dist. 1989). Here, plaintiff alleges that a surgical team was negligent and caused his crown to fall out. This is not the type of case that is within the comprehension of laymen.

{¶5} Therefore, judgment is rendered in favor of defendant.

Plaintiff v. OHIO STATE UNIVERSITY WEXNER MEDICAL CTR Defendant	Deputy Clerk Holly True Shaver ENTRY OF ADMINISTRATIVE DETERMINATION

{¶6} Having considered all the evidence in the claim file, and for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff.

HOLLY TRUE SHAVER
Deputy Clerk

Filed 1/10/24
Sent to S.C. Reporter 2/28/24