

{¶3} Nurse Hannah was called to the scene and she proceeded to wrap plaintiff's hand. When count cleared at 5:20 a.m., plaintiff was taken to the medical department where ice was applied to his finger and he was given Tylenol for pain. Dr. Zuber was called to the institution and plaintiff was instructed to wait for his arrival. At some point, the tip of plaintiff's finger was found and delivered to one of defendant's nurses.

{¶4} Dr. Zuber examined plaintiff at 10:30 a.m. and rewrapped his hand. According to plaintiff, the paperwork necessary to effectuate his transfer to an off-site medical facility was completed at 12:30, but he did not leave the institution until 1:30 or 2:00 p.m. Plaintiff arrived at Ohio State University Medical Center (OSU) sometime between 4:00 to 4:30 p.m. He testified that an intravenous infusion was started and that he was seen by numerous doctors. OSU physicians ground down the exposed bone in plaintiff's finger and sutured his wound. Plaintiff's fingernail remained intact but the tip of the finger was not reattached. Plaintiff testified that his finger healed relatively quickly. The court observed plaintiff's injured finger, which appeared to be virtually unchanged, except that it was slightly shorter than the ring finger on his right hand.

{¶5} Defendant argues that plaintiff did not file his complaint within the applicable statute of limitations. In the alternative, defendant argues that even if plaintiff had timely filed his complaint, he failed to produce the expert medical testimony necessary to sustain his burden of proof.

{¶6} Plaintiff was the only witness in this case. Although plaintiff alleged in his complaint that improper training in the use of the meat slicer and the lack of a required safety device were the causes of his accident, he withdrew those allegations at trial and acknowledged that his own carelessness was the sole cause of his accident. Thus, plaintiff's single cause of action is one for medical negligence based on defendant's alleged failure to timely provide him with adequate medical treatment.

{¶7} Under R.C. 2305.11(B)(1), an action upon a medical claim shall be commenced within one year after the cause of action accrued. In this case, plaintiff's claim accrued on the date of his accident, December 14, 1999. Plaintiff's complaint was not filed until December 5, 2001, almost two years later. Consequently, plaintiff's claim was not timely commenced.

{¶8} Furthermore, even if plaintiff had timely commenced this action, in order to prevail on a claim of medical malpractice or professional negligence, plaintiff must first prove: 1) the standard of care recognized by the medical community; 2) the failure of defendant to meet the requisite standard of care; and, 3) a direct causal connection between the medically negligent act and the injury sustained. *Bruni v. Tatsumi* (1976), 46 Ohio St.2d 127. The appropriate standard of care must be proven by expert testimony. *Id.* at 130. That expert testimony must explain what a medical professional of ordinary skill, care, and diligence in the same medical specialty would do in similar circumstances. *Id.*

{¶9} At trial, plaintiff argued that defendant unreasonably delayed his treatment by not promptly transporting him to the nearest medical facility, thus ruling out any opportunity for the tip of his finger to be reattached. However, plaintiff presented no expert testimony to establish an appropriate standard of care.

{¶10} Accordingly, the court finds that plaintiff failed to prove any of his claims for relief. Judgment is recommended in favor of defendant.

STEVEN A. LARSON
Magistrate

Entry cc:

Ronald J. Peters, #240-820

Plaintiff, Pro se

Case No. 2001-11693

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MAGISTRATE DECISION

2500 South Avon-Belden Road
Grafton, Ohio 44044-9802

Anne Strait
Assistant Attorney General
65 East State St., 16th Fl.
Columbus, Ohio 43215

Attorney for Defendant

LP/cmd
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