[Cite as *Salvo-Hill v. Univ. Hosp. Geauga Med. Ctr.*, 2026-Ohio-3629.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

CARMELA SALVO-HILL, EXECUTOR OF THE ESTATE OF ISABELLA R. SALVO, DECEASED, :

Plaintiff-Appellant, :

No. 115735

v. :

UNIVERSITY HOSPITALS GEAUGA MEDICAL CENTER, ET AL., :

Defendants-Appellees. :

JOURNAL ENTRY AND OPINION

JUDGMENT: REVERSED AND REMANDED
RELEASED AND JOURNALIZED: September 17, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CV-23-975742

Appearances:

Law Offices of Georg Abakumov LLC, and Georg I. Abakumov; Flowers & Grube, Paul W. Flowers, *for appellant*.

Tucker Ellis LLP, Michael J. Ruttinger, Edward E. Taber, John A. Favret, III, and Kristin Volk, *for appellees*.

MARY J. BOYLE, J.:

{¶ 1} Plaintiff-appellant Carmela Salvo-Hill, Executor of the Estate of Isabella R. Salvo ("Carmela"), appeals the trial court's decision granting summary

judgment in favor of defendants-appellees University Hospitals Geauga Medical Center, UH Regional Hospitals, University Hospitals Cleveland Medical Center, and University Hospitals Health System, Inc. (collectively "UH"). She raises the following single assignment of error for review:

> The trial court erred, as a matter of law, by granting summary judgment without explanation upon [Carmela's] wrongful death and survivorship claims.

{¶ 2} Finding that genuine issues of material fact exist, we reverse the trial court's grant of summary judgment and remand the matter for further proceedings.

I. Facts and Procedural History

{¶ 3} This appeal arises from the death of Isabella R. Salvo ("Isabella") and the injuries she sustained while being transported by wheelchair to her daughter Carmela's car during her discharge from University Hospitals Geauga Medical Center ("UH Geauga"). Carmela, as the Executor of Isabella's Estate, initiated a wrongful-death and survivorship action against UH.[1] In the amended complaint, Carmela alleged that Isabella was admitted to UH Geauga on February 10, 2021, because of back pain. On February 19, 2021, the day of Isabella's discharge, Carmela was instructed to park her car at the front entrance of the hospital and wait for a UH employee, later identified as UH Patient Transporter Suzanne Freeman ("Freeman"), to bring Isabella by wheelchair. Carmela further alleged that Freeman

[1] Carmela filed her initial complaint in February 2023. We note that with her initial complaint, Carmela contemporaneously filed a motion for extension of time to submit affidavit of merit "out of an abundance of caution." (Carmela's Appellate Brief, p. 5.) Carmela then attached the affidavit of merit to her amended complaint in August 2023.

stopped the wheelchair near her car, instructed Carmela to not approach or assist in any way, and instructed another UH Geauga employee, later identified as Patient Transporter Bruce Morrissey ("Morrissey"), "who was standing in the immediate area, not to approach or assist." (Amended Complaint, Aug. 10, 2023.) Freeman then lifted Isabella from the wheelchair and attempted to place her into Carmela's car. Carmela alleged that while doing so, Freeman dropped Isabella "to the pavement and then, in what would prove to be a series of failed efforts, attempted to pick up [Isabella] from the ground several times, dropped [Isabella] several more times, and caused [Isabella] to repeatedly strike the pavement, the wheelchair, and the automobile sill and door." (Amended Complaint, Aug. 10, 2023.)

{¶ 4} Carmela alleged that UH breached the duty and standard of care that it owed to Isabella to transport her properly and safely from UH Geauga when Freeman provided "ancillary services" and attempted to "singlehandedly transfer [Isabella] to Carmela's car" and when it required "a Hoyer sling and the assistance of several staff persons to initially seat [Isabella] into the wheelchair[.]" (Amended Complaint, Aug. 10, 2023.) And, as a direct and proximate result of "negligent and/or negligence per se acts" and omissions of UH, Isabella died on February 26, 2021. (Amended Complaint, Aug. 10, 2023.) Isabella's death certificate listed the immediate cause of death as the "failure to thrive with recent extremity blunt impact injuries" and described her injuries as "fell to the ground while being handled." (Isabella's Death Certificate, Mar. 12, 2021.)

{¶ 5} Carmela further alleged that, as a direct and proximate result of Isabella's wrongful death, her children and next of kin suffered, "inter alia, mental anguish, loss of services, loss of society including loss of companionship, care, assistance, attention, protection, advice, guidance, counsel and other such damages set forth in [R.C. Ch.] 2125." (Amended Complaint, Aug. 10, 2023.)

{¶ 6} In response, UH filed an answer to Carmela's amended complaint, denying liability and asserting several affirmative defenses, including that Carmela's claims are barred by the applicable statute of limitations and it has "immunity from liability for some or all of [Carmela's] claims, including but not limited to immunity granted pursuant to [R.C. 2305.2311], House Bill 606, and any further similar statutory immunity granted by the Ohio General Assembly and/or federal law including the PREP Act, 42 U.S.C. §247d-6d, *et seq*., as amended."[2] (UH Answer, Aug. 24, 2023.) UH further asserted that it was "immune from liability for health care and emergency services provided during a government-declared disaster or emergency." (UH Answer, Aug. 24, 2023.)

{¶ 7} The parties proceeded with discovery, which included the depositions of Carmela, Freeman, Morrissey, Amolak Sandhu, M.D. ("Dr. Sandhu"), and UH Patient Family Experience Coordinator/Clinical Nurse Advisor Laura Cook

[2] Am.Sub.H.B. No. 606, which will be explained in more detail below, was enacted by the General Assembly in response to the COVID-19 pandemic to "make temporary changes related to qualified civil immunity for health care and emergency services provided during a government-declared disaster or emergency and for exposure to or transmission or contraction of certain coronaviruses."

("Cook"). The following is a summary of the deposition testimony relevant to this appeal.

{¶ 8} Isabella, who was 83 years old at the time, was admitted to UH Geauga for back pain. Carmela called for an ambulance because Isabella "was having so much back pain she was having trouble getting out of bed." (Carmela Depo., p. 107.) According to Carmela, hospital staff told her that "sepsis arthritis was causing the back pain." (Carmela Depo., p. 107.) While in the hospital, Isabella was diagnosed with "COVID-19 pneumonia" and a "MSSA bacteremia" infection.[3]

{¶ 9} After more than a week of treatment, Isabella's medical care team determined that she was medically stable for discharge. Isabella's doctors wanted to place Isabella in a skilled nursing facility. Carmela, however, had some concerns, including the COVID-19 pandemic, so she opted to care for Isabella at home with the help of a 24-hour-home-health care aide and family members and arranged to transport Isabella from the hospital. Carmela testified that she was not permitted to visit Isabella because of the restrictions on hospital visitation during the COVID-19 pandemic.

{¶ 10} Dr. Sandhu, the UH Geauga Hospitalist in charge of Isabella's care, confirmed that her COVID-19 pneumonia and bacteremia infection improved from the time he first examined her to her discharge. With regard to the bacteremia

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[3] "MSSA Bacteremia occurs when the MSSA bacteria enters your bloodstream. [It] is a serious infection that has a high risk of complications and death." WebMD, *What Is MSSA Bacteremia?,* https://www.webmd.com/skin-problems-and-treatments/what-is-mssa-bacteremia (accessed Aug. 13, 2026) [https://perma.cc/REN9-S6LZ].

infection, Dr. Sandhu stated that "the repeat blood cultures from [Isabella's] infection . . . were . . . cleared up." (Dr. Sandhu Depo., p. 20.) As to Isabella's COVID-19 infection, Dr. Sandhu testified that this infection resolved by the time of discharge, noting that on admission she required oxygen, but "at the time of discharge, she was on room air, did not require any oxygen." (Dr. Sandhu Depo., p. 20.) According to Dr. Sandhu, Isabella was medically stable for discharge:

> [M]edically she was stable for discharge, like, from my standpoint. From her COVID standpoint, you know, from her infection standpoint, she was medically stable, you know, for discharge. You know, whether that be home, yeah, that's, you know, the family's right and decision that they can make. But yeah, she was medically cleared, from my standpoint, for discharge, 100%.

(Dr. Sandhu Depo., p. 27-28.) Dr. Sandhu recommended six weeks of intravenous antibiotics upon discharge. He also testified that the details regarding Isabella's discharge process were not a part of her medical care. Once he issued the discharge summary, how the discharge is handled is "out of [his] hands" and is "now in the hands of either nursing care, case management, or social work," who would decide "how many people it would take to transport [the patient], how [the patient] would get from [their] room to the transport vehicle . . . how [the patient] would get from the transport vehicle to wherever [they were] headed, whether it was home or to another medical facility[.]" (Dr. Sandhu Depo., p. 32-33.)

{¶ 11} At the time of Isabella's discharge, Freeman assisted Isabella with the wheelchair-to-car transport. She brought a wheelchair to Isabella's room.

According to Freeman, a "Hoyer lift" was not used to move Isabella.[4] (Freeman Depo., p. 30.) Rather, Isabella was sitting on the edge of her bed when the nurse and the nurse's aide assisted Isabella from her bed into the wheelchair, which was locked, while Freeman held onto the wheelchair's handles. From there, Freeman pushed Isabella to Carmela's car, which was parked outside the main entrance of the building. Isabella was still dressed in her hospital gown and had a blanket covering her. Morrissey waited outside of Isabella's room and accompanied them with the transport to Carmela's car. He walked in front of them, clearing bystanders from the hallway and opening doors for Freeman during the transport.

{¶ 12} Because of the pandemic, UH Geauga had a policy, at that time, regarding the transport of COVID-19 patients to help control the spread of COVID-19. According to UH's COVID-19 policy, one "clean person" and one "dirty person" were required during patient transport. Both Freeman and Morrissey testified that during Isabella's transport, Freeman was the "dirty person" and Morrissey was the "clean person." The "dirty person" wore protective gear or "PPE" (masks, gloves, and gowns) and was the only person permitted to physically handle or assist the patient during transport. (Morrissey Depo., p. 31.) Freeman described the role of the "clean person" as the person "who escort[s her] down the hallway, get[s] the doors for [her], [and] keep[s] other people away." (Freeman Depo., p. 25.) The "clean person" did not wear protective gear, did not touch the patient, and was

[4] Freeman described a Hoyer lift as "a sling device that's hooked onto a pole, and it's for assistance lifting a heavy patient." (Freeman Depo., p. 16.)

responsible for maintaining distance to reduce contact and contamination risk. Therefore, as the "clean person," Morrissey was not "contaminated" and tried "to keep everybody away from [Freeman and Isabella]." (Morrissey Depo., p. 31.)

{¶ 13} When the three of them arrived at Carmela's car, Morrissey opened the car door and then stood at a distance, as the policy required, while Freeman, alone and as the policy required, began her standard process of moving Isabella from the wheelchair to the vehicle. This typically involved lining up and locking the wheelchair and unlocking the legs to swing them out of the way. Freeman positioned Isabella so that she was facing the car and Freeman was facing Isabella, with Freeman's back to the vehicle. Isabella then stood up with Freeman's assistance. Freeman placed her arms under Isabella's armpits to help guide her up. Isabella started to go down, so Freeman grabbed her tighter in an attempt to keep Isabella upright. Freeman, however, was unable to keep Isabella upright on her own, and as a result, Isabella went down to the pavement, while Freeman went down to her knees. At this point, Isabella was on the ground and Freeman was holding Isabella up so "she [was] not laying . . . completely on the ground."[5] (Freeman Depo., p. 54.)

{¶ 14} Freeman recalled that Isabella only hit the ground once. She did not recall picking Isabella up and Isabella dropping again or Isabella hitting Carmela's car. Morrissey also recalled that Isabella hit the ground once and did not hit Carmela's car. According to Morrissey, when Isabella went down, her head did not

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[5] We note that there is video of the incident that the parties watched in preparation for their depositions, which was not admitted into evidence and is not included in the record before us.

hit the ground and Isabella "never went from that squat position because [Freeman] held her there." (Morrissey Depo., p. 56.) Morrissey further testified that there was snow on the ground that day and it was cold out.

{¶ 15} Morrissey then offered Freeman assistance, but Freeman refused because he was the "clean person." According to Freeman, Morrissey moved the wheelchair when Isabella fell to the ground. Carmela then ran into the emergency department for help. Freeman stayed with Isabella, lifting her so that she was not completely on the ground, until additional hospital personnel arrived on the scene to assist. Morrissey stated that there were "four, maybe even five people" who lifted Isabella off the ground and into the wheelchair. (Morrissey Depo., p. 60.)

{¶ 16} Freeman testified that Carmela told her, "I don't blame you." (Freeman Depo., p. 63.) Freeman further testified that she "did not tell Carmela at that point, 'it took three people to get her into a chair in the room, I don't know how they expect me to do this myself,'" stating that there were "only two [people] in the room." (Freeman Depo., p. 64.) Freeman also did not recall telling Carmela that "'they didn't tell me [Isabella] wasn't ambulatory[.]'" (Freeman Depo., p. 64.)

{¶ 17} Carmela testified as to how Freeman attempted to move Isabella into the car. Carmela did not understand why Freeman was struggling with getting Isabella into the car because Isabella would usually get "up out of the chair and [get] right in the car" and "nobody told [Carmela that her] mom could not stand up on her own and get in the car." (Carmela Depo., p. 142-143.) Carmela asked Freeman if Morrissey could help and Freeman replied, "[N]o, he's not allowed to help me.

He's my clean guy." (Carmela Depo., p. 142.) According to Carmela, she put a pillow on the ground between her car and Isabella because she was worried about the wheelchair causing a wound to Isabella's leg and Freeman was "worried about the ground." (Carmela Depo., p. 150.) At that point, the wheelchair was out of the way. Carmela could not remember if she moved it or if Morrissey did.

{¶ 18} Carmela described the incident as "it wasn't a fall. . . . [Freeman] has her, and she can't hang on to her anymore, so she sets her on the ground. So that's when she told me to get help because she can't do this . . . and by that time [Isabella] is laying on the ground." (Carmela Depo., p. 153.) Freeman tried to help Isabella stand up but was unable to do so.[6] Freeman then asked Carmela to get help. Carmela testified that Freeman stated to her, "I don't know why they thought I could do this. It took three of us to get her in a wheelchair." (Carmela Depo., p. 144.) Carmela ran into the emergency department and said, "[P]lease, we need help, we need help, can somebody bring a gurney, can somebody please help[.]" (Carmela Depo., p. 143.) When she returned, she tried to assist Isabella, but a UH Geauga police officer had her stand back. Carmela testified that it took five people to get Isabella back into the wheelchair. They then wheeled her into the emergency department.

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[6] In Carmela's appellate brief, she states, "Freeman failed, several times, to pick Isabella up from the ground causing her to 'repeatedly strike the pavement, the wheelchair, and the automobile sill and door.'" (Carmela's Brief, p. 4, quoting paragraph 18 of her amended complaint and citing page 143 of her deposition transcript.) Our de novo review of the record, however, including page 143 of Carmela's deposition testimony did not reveal any reference to Freeman "failing several times to pick up Isabella and causing her to repeatedly strike the pavement, the wheelchair, or the automobile sill and door."

{¶ 19} Carmela spoke with Cook while in the emergency department. Carmela explained to Cook what happened and told her that she "was very upset" and if Isabella "wasn't able to get in [her] car, [then] why didn't somebody tell [her]." (Carmela Depo., p. 146.) Carmela remembered saying to Cook, "[i]f somebody had half a brain, they should have said she's unable to get into a car, we could use transport to get her home." (Carmela Depo., p. 146.) Carmela also asked why Cook did not recommend transport again if Isabella was not able to move and they offered it the previous day. Following their conversation, Carmela was allowed to see Isabella in the emergency department. She described her mother as having "bruises and wounds" all over "her arms, her legs, her chest, [and] her neck" and "blood all over the blanket[.]" (Carmela Depo., p. 147.) Isabella passed away a week later, with the medical examiner specifying "blunt impact injuries" as the cause of her death.

{¶ 20} Carmela could not state whether Isabella still had trouble walking at the time of discharge or whether Isabella was physically able to get in and out of a car on the day she was discharged because she was not able to see her. Carmela, however, did tell Isabella's nurse that she was concerned about Isabella going home if she was still in pain and if that problem was not resolved.

{¶ 21} Cook testified that as a Patient Family Experience Coordinator, she is available as a resource for patients if they have questions, concerns, or complaints and if they need help. She first got involved with Isabella's hospital stay when Carmela left a message for her on February 18, 2021, regarding assistance with home health care and discharge planning. Cook had a conference call with Carmela, a

transitional care coordinator, and the assistant head nurse. The concern that day was with Isabella's discharge because physical therapy recommended 24-hour care and Carmela needed more time to set up for the home care. Carmela testified that Cook mentioned during their call that they could send Isabella "home in an ambulance" on February 18 because Carmela was at work. (Carmela Depo., p. 123.) Because Carmela did not have the 24-hour home health care set up yet, they agreed to discharge Isabella the next day. Cook testified that she did not recall "offering a transport vehicle when [she] first learned that there was some . . . issue with getting [Isabella] out of the hospital on the 18th[.]" (Cook Depo., p. 29.)

{¶ 22} Cook received a call from the emergency department after the incident to speak with Carmela. From what Cook could recall, she remembered Carmela stating something along the lines that they dropped Isabella in the parking lot. Carmela made a comment to her that Isabella "was too weak to be sent home in a wheelchair and in a car, that it had taken three people to get her in the wheelchair and only had one transporter. That it wasn't [Freeman's] fault . . . they should have never put her in that position." (Cook Depo., p. 34.) According to Cook, Carmela's "biggest concern" was "who said it was okay to send her home in a wheelchair in the car? And why didn't they offer [her] transport to home? That's negligence, and the situation wasn't taken seriously." (Cook Depo., p. 35.)

{¶ 23} Following discovery, UH moved for summary judgment, asserting immunity under Am.Sub.H.B. No. 606 ("H.B. 606") because the health care services it rendered concerning Isabella's discharge and transport are linked to her medical

care and treatment as a COVID-19 patient.[7] UH further asserted that Carmela failed to produce an expert report as required to establish a wrongful-death medical-negligence claim. Lastly, UH contended that Carmela's survivorship cause of action qualified as a "medical claim" and was barred by the one-year statute of limitations set forth in R.C. 2305.113.

{¶ 24} Carmela opposed the motion, arguing that H.B. 606 has no relevance to her claims because her case is one of ordinary negligence and even if her claims could be considered medical, UH is not afforded protection under H.B. 606 because Isabella's injuries occurred following her medical treatment and were not incident to her COVID-19 diagnoses. Carmela further argued that her wrongful-death claim can exist outside of a medical-malpractice claim. Lastly, with regard to the lack of an expert report, Carmela argued that expert testimony is not required when a common knowledge exception applies.

{¶ 25} In September 2025, the trial court granted UH's motion. In its journal entry granting the motion, the court stated: "The court, having considered all of the evidence and having construed the evidence in a light most favorable to the non-moving parties, determines that there remain no genuine issues of material fact and defendants are entitled to judgment as a matter of law." (Journal Entry, Sept. 25, 2025.)

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[7] The record reflects that in March 2025, UH moved for a judgment on the pleadings pursuant to Civ.R. 12(C), which Carmela opposed. The trial court denied UH's motion in April 2025.

{¶ 26} It is from this order that Carmela appeals, raising one assignment of error for review challenging the trial court's grant of summary judgment in UH's favor.

II. Law and Analysis

A. Standard of Review

{¶ 27} An appellate court reviews the grant or denial of summary judgment de novo. *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105 (1996). In a de novo review, this court affords no deference to the trial court's decision and independently reviews the record to determine whether the denial of summary judgment is appropriate. *Hollins v. Shaffer*, 2009-Ohio-2136, ¶ 12 (8th Dist.).

{¶ 28} Summary judgment is appropriate if (1) no genuine issue of any material fact remains; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and construing the evidence most strongly in favor of the nonmoving party, that conclusion is adverse to the party against whom the motion for summary judgment is made. *Id.*, citing *State ex rel. Cassels v. Dayton City School Dist. Bd. of Edn.*, 69 Ohio St.3d 217 (1994).

{¶ 29} The party moving for summary judgment bears the burden of demonstrating that no material issues of fact exist for trial. *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293 (1996). If the moving party fails to meet this burden, summary judgment is not appropriate; if the moving party meets this burden, the nonmoving party must then point to evidence of specific facts in the record demonstrating the

existence of a genuine issue of material fact for trial. *Id.* at 293. Trial courts should award summary judgment only after resolving all doubts in favor of the nonmoving party and finding that "'reasonable minds can reach only an adverse conclusion'" against the nonmoving party. *Murphy v. Reynoldsburg*, 65 Ohio St.3d 356, 358-359 (1992), quoting *Norris v. Ohio Std. Oil Co.*, 70 Ohio St.2d 1, 2 (1982). Additionally, when ruling on a motion for summary judgment, the trial court is not permitted to weigh the evidence or choose among reasonable inferences. *Dupler v. Mansfield Journal Co.*, 64 Ohio St.2d 116, 121 (1980). Rather, the court must evaluate the evidence, taking all permissible inferences and resolving questions of credibility in favor of the nonmoving party. *Id.*

B. Explanation in the Order Granting Summary Judgment

{¶ 30} Carmela first argues that the trial court erred by failing to provide an explanation when it granted summary judgment in UH's favor. UH contends that detailed opinion by the trial court identifying its reasons for granting summary judgment is not required because this court exercises de novo review over summary judgment.

{¶ 31} In support of her argument, Carmela relies on caselaw from the Ninth District Court of Appeals and contends that the trial court's judgment should be reversed and the matter remanded so the trial court can create an entry sufficient to permit appellate review. *See Pitts v. Sibert*, 2015-Ohio-3020 (9th Dist.); *MSRK, L.L.C. v. Twinsburg*, 2012-Ohio-2608 (9th Dist.); *Mourton v. Finn*, 2012-Ohio-3341 (9th Dist.); *Zemla v. Zemla*, 2012-Ohio-2829 (9th Dist.); *Covender v. State*,

2019-Ohio-3715 (9th Dist.); *CitiMortgage, Inc. v. Tillman*, 2018-Ohio-629 (9th Dist.); *Hunt v. Alderman*, 2015-Ohio-4667 (9th Dist.). Carmela asks this court to adopt the Ninth District's reasoning. We decline to do so.

{¶ 32} We have previously addressed this exact argument and have declined to accept it. In *Ferguson v. Univ. Hosps. Health Sys.*, 2022-Ohio-3133 (8th Dist.), we recognized the caselaw from the Ninth District and held: "With due respect to, and after consideration of, these nonbinding conclusions, there is no reason to remand in this case." *Id.* at ¶ 65. We reasoned:

> Because our review of the trial court's order is de novo . . . [w]e review the evidence "as if for the first time." *Argabrite v. Neer*, 149 Ohio St.3d 349, 353, 2016-Ohio-8374, 75 N.E.3d 161. We afford no deference to the trial court's decision and independently review the record to determine whether summary judgment is appropriate. It is as if the motion and evidence therein is first reviewed at the appellate level. [*Grafton*, 77 Ohio St.3d at 105]; *Argabrite* at ¶ 14. There is no requirement under Civ.R. 56 that a trial court provide reasons for its decision. *Sterling Contr. LLC v. Main Event Ent., LP*, 8th Dist. Cuyahoga No. 110965, 2022-Ohio-2138, ¶ 12 (citing *Medina ex rel. Jocke v. Medina*, 9th Dist. Medina No. 20CA0044-M, 2021-Ohio-4353, ¶ 22). And, because a motion for summary judgment does not involve factfinding, there is no requirement for findings of fact under Civ.R. 52. *Id.* (citations omitted).

Id. at ¶ 60-61.

{¶ 33} The trial court's choice to not set forth detailed reasons for granting summary judgment is not a basis for reversal in this case. *Id.* at ¶ 71. While ultimately we reverse the trial court's judgment, the court's failure to set forth detailed reasons for granting summary judgment is not the basis for reversal.

{¶ 34} Having found that the trial court was not required to provide reasons for its decision granting UH's motion for summary judgment, we next address the merits of Carmela's appeal.

C. H.B. 606

{¶ 35} We begin our analysis with the discussion of H.B. 606, which was enacted in response to the COVID-19 pandemic and "applies to acts, omissions, conduct, decisions, or compliance from the date of the Governor's Executive Order 2020-01D, issued March 9, 2020, declaring a state of emergency due to COVID-19 through September 30, 2021." *Id.* at Section 4. H.B. 606, Section (B)(1), gives immunity to

> a health care provider that provides *health care services*, emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical equipment or product, as a result of or in response to a disaster or emergency is not subject to professional disciplinary action and is not liable in damages to any person or government agency in a tort action for injury, death, or loss to person or property that allegedly arises from any of the following:
>
> (a) An act or omission of the health care provider in the health care provider's provision, withholding, or withdrawal of those services;
>
> (b) Any decision related to the provision, withholding, or withdrawal of those services;
>
> (c) Compliance with an executive order or director's order issued during and in response to the disaster or emergency.

(Emphasis added.)

{¶ 36} H.B. 606's immunity does not apply if "the health care provider's action, omission, decision, or compliance constitutes a reckless disregard for the

consequences so as to affect the life or health of the patient or intentional misconduct or willful or wanton misconduct on the part of the person against whom the action is brought." H.B. 606, Section 1(B)(2).

{¶ 37} Carmela argues that her wrongful-death and survivorship claims are based upon principles of ordinary negligence and do not qualify as a "medical claim" within the meaning of R.C. 2305.113(E)(3). Carmela notes that her amended complaint does not challenge any medical care or any COVID-19 medical diagnosis or treatment. According to Carmela, the definition of a medical claim "does not extend to non-medical hospital staff members who carelessly drop discharged former patients in parking lots." (Carmela's Brief, p. 10.) She further contends that the immunity provided under H.B. 606 does not apply to UH because Isabella's injuries occurred following her medical treatment, were unrelated to any medical procedure, and were not incident to her COVID-19 diagnoses.[8] Additionally, she argues that the plain language of H.B. 606 limits immunity to providers within the scope of their field in response to medical decisions related to the COVID-19 emergency during the time period set forth in the order.

{¶ 38} UH contends that it is entitled to immunity under H.B. 606 because Isabella received health care services by a health provider, which were as the result of or in response to the COVID-19 emergency. According to UH, H.B. 606 does not hinge on whether a claim is a "medical claim" under R.C. 2305.113. Rather, H.B. 606

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[8] Alternatively, Carmela contends that even if her claim for ordinary negligence could be considered a medical claim, H.B. 606's immunity does not afford UH protection because a defendant's recklessness is an exception to immunity.

speaks in terms of broadly defined "health care services" and covers all decisions and acts integral to delivering those services during the emergency. UH contends that Carmela's attempt to characterize her claim as "ordinary negligence" and separate "discharge and transport decisions from medical treatment" does not alter H.B. 606's applicability. (UH's Brief, p. 13.) While Carmela argues that her claim is not a medical claim under R.C. 2305.113 because the injuries occurred following Isabella's medical treatment and were unrelated to any medical procedure, she also argues that H.B. 606 does not afford UH any immunity because Isabella's fall was unrelated to any medical procedure or any COVID-19 medical diagnosis or treatment. In other words, UH's transport of Isabella by wheelchair to Carmela's car following her discharge does not constitute "healthcare services" as set forth in H.B. 606.

{¶ 39} Our analysis of the issue of immunity under H.B. 606 has uncovered little development in that area of the law, but our review has revealed an appellate case from the Tenth District, which has analyzed the issue — *Samadder v. Ohio State Univ. Wexner Med. Ctr.*, 2024-Ohio-6104 (10th Dist.).[9]

{¶ 40} In *Samadder*, the plaintiff was admitted as a patient for treatment of COVID-19, which required placement on a ventilator and catheter. Plaintiff alleged that the placement of the catheter caused "a perforation to her right ventricle which

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[9] Other than *Samadder*, trial courts have interpreted the extent to which immunity may be afforded through H.B. 606, focusing on the "treatment directly related to or impacted by COVID-19, not treatment that merely took place during the time period the state of emergency was in effect." *Knoblauch v. Mercy Health*, Lucas C.P. No. CI-0202203410, 2025 Ohio Misc. LEXIS 2001, at *9 (May 28, 2025).

required an emergency sternotomy and repair. She further alleged that she experienced swelling and a loss of pulse in her left arm following that procedure." *Id.* at ¶ 2. The hospital filed for summary judgment pursuant to H.B. 606, arguing that it is entitled to immunity under H.B. 606. The court of claims granted summary judgment in favor of the hospital, and the plaintiff appealed. On appeal, the *Samadder* Court found that the plain language of H.B. 606 "conditions its application on whether the healthcare services at issue were provided 'as a result of' the COVID-19 pandemic, not whether the standard of care was altered by the pandemic." *Id.* at ¶ 18. Ultimately, the defendant was afforded immunity because the court found that the treatment at issue was "inextricably linked to her treatment as a COVID-19 patient." *Id.*

{¶ 41} UH argues that *Samadder* applies to this case because the "healthcare services" at issue were provided "as a result of" the COVID-19 pandemic. More specifically, the discharge decision, method of transport, and division of roles between "clean" and "dirty" transport personnel were adopted "as a result of" the pandemic and implemented during the emergency period in direct response to infection-control concerns. Whereas, Carmela argues that while UH accurately observed that H.B. 606(1)(B)(1) provides immunity "'as a result of' the COVID-19 pandemic, not whether the standard of care was altered by the pandemic,' it fails to reveal that "the treatment at issue" in *Samadder* was "inextricably linked to her treatment as a COVID-19 patient." *Id.* at ¶ 18. We agree with Carmela that *Samadder* is distinguishable.

{¶ 42} In *Samadder*, 2024-Ohio-6104 (10th Dist.), it was not possible to "divorce [the plaintiff's] treatment at [the hospital] from the pandemic." *Id.* That is not the situation in the matter before us. Rather, our focus is on whether the wheelchair transport in this case constitutes "health care services" under H.B. 606, which is defined as:

> services rendered by a health care provider for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provisions of any medication, medical equipment, or other medical product. "Health care services" includes personal care services and experiential treatment.

Am.Sub.H.B. No. 606, Section 1(A)(21).

{¶ 43} Therefore, in order to determine if summary judgment was proper, we must determine if Freeman's wheelchair transport of Isabella to Carmela's car, following Isabella's discharge from UH, constituted service for the "*diagnosis*, prevention, *treatment*, cure, or relief of a health condition, illness, injury, or disease[.]" (Emphasis added.) *Id.* Because Ohio law is sparse regarding H.B. 606, we turn to the definition of a medical claim as set forth in R.C. 2305.113(E)(3) for guidance.

D. Healthcare Services and Medical Claim

{¶ 44} "Medical claim" is defined in R.C. 2305.113(E)(3) as "any claim that is asserted in any civil action against a physician [or] . . . hospital . . . against any employee or agent of a physician [or] hospital . . . and that arises out of the medical *diagnosis*, care, or *treatment* of any person." (Emphasis added.) In *Estate of Stevic v. Bio-Medical Application of Ohio, Inc.*, 2009-Ohio-1525, the Ohio Supreme Court

stated that the "term 'medical claim' as defined in R.C. 2305.113(E)(3) has two components that the statute states in the conjunctive: (1) the claim is asserted against one or more of the specifically enumerated medical providers and (2) the claim arises out of medical diagnosis, care, or treatment." *Id.* at ¶ 18.

{¶ 45} The Ohio Supreme Court has stated that the "terms 'medical diagnosis' and 'treatment' are terms of art having a specific and particular meaning relating to the identification and alleviation of a physical or mental illness, disease, or defect." *Browning v. Burt*, 66 Ohio St.3d 544, 557 (1993), citing *Black's Law Dictionary* (6 Ed. 1990). Whereas, "the word 'care' is a general word without a specific legal meaning until placed in a particular context." *Id.* "'[C]are' as used in R.C. 2305.11(D)(3) (where the word is preceded by terms such as 'physician,' 'hospital,' 'nurse,' and 'medical diagnosis') means the prevention or alleviation of a physical or mental defect or illness."[10] Therefore, the Ohio Supreme Court has instructed that the term "care" as used in "R.C. 2305.11(D)(3) should not be broadly interpreted when the context in which it is used is properly understood." *Id.*

{¶ 46} Here, Carmela contends that her wrongful-death and survivorship claims do not qualify as a "medical claim" within the meaning of R.C. 2305.113. She concedes that UH is among the specifically enumerated hospital "employees" against which a medical claim may be brought. Rather, Carmela argues the claims do not arise out of the medical diagnosis, care, or treatment of UH. Carmela

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[10] The Ohio Supreme Court in *Browning* defined "medical claim" as used in a prior but analogous version of R.C. 2305.113(E)(3).

contends that the above-definition of "medical claim" "does not extend to non-medical hospital staff members who carelessly drop discharged former patients in parking lots." (Carmela's Appellate Brief, p. 10.) In support of her argument, Carmela cites to several cases, including *O'Dell v. Vrable III*, 2022-Ohio-4156 (4th Dist.); *Rome v. Flower Mem. Hosp.*, 70 Ohio St.3d 14 (1994); *Christian v. Kettering Med. Ctr.*, 2017-Ohio-7928 (2d Dist.); and *Hill v. Wadsworth-Rittman Area Hosp.*, 2009-Ohio-5421 (9th Dist.), for the proposition that her claim is not a "medical claim." We review each case in turn.

{¶ 47} In *O'Dell*, an elderly patient fell and broke her hip while in her room at a nursing home. She died shortly after the fall, and her son as her personal representative filed a complaint against the nursing home and other corporate and individual defendants. No one observed the patient fall, and the complaint alleged both medical-malpractice and ordinary negligence claims. The defendants filed a motion for summary judgment, arguing that all of the claims were "medical claims" under R.C. 2305.113(E)(3) and that all ordinary negligence claims should be dismissed. The trial court agreed and dismissed all but the medical claims. *Id.* at ¶ 17.

{¶ 48} On appeal, the plaintiff argued the trial court erred when it determined that all his claims were a single medical claim and dismissed all his remaining claims, except the medical claim as alleged in Counts 6 and 7. Plaintiff argued that the trial court incorrectly applied the definition of "medical claim" in

R.C. 2305.113(E) to include acts of ordinary negligence, contending that a "fall" is not a medical claim. *Id.* at ¶ 26.

{¶ 49} The Fourth District Court of Appeals concluded that the plaintiff's claims were not limited to medical claims, noting that falls can be general negligence claims, depending upon the factual circumstances. *Id.*, 2022-Ohio-4156, at ¶ 40 (4th Dist.). "When a person falls because of the negligent use of medical equipment during a medical procedure, it is a medical claim," but when "the fall does not arise out of medical diagnosis, care, or treatment, the fall gives rise to a general negligence claim, not a medical claim." *Id.* at ¶ 40, 42. Furthermore, the *O'Dell* Court listed four factors to consider when deciding whether the claim was a medical claim:

> "(1) whether the equipment 'was used for "the prevention or alleviation of a physical or mental defect or illness;'" (2) 'whether the equipment was "an inherently necessary part of a medical procedure;'" (3) whether 'use of the equipment "arose out of" a physician ordered treatment;' and (4) whether 'use of the equipment required a "certain amount" of professional expertise or professional skill.'"

Id. at ¶ 43, quoting *McDill v. Sunbridge Care Ents.*, 2013-Ohio-1618, ¶ 21, quoting *Conkin v. CHS-Ohio Valley*, 2012-Ohio-2816, ¶ 9 (1st Dist.), quoting *Browning*, 66 Ohio St.3d at 557, and *Rome*, 70 Ohio St.3d at 16-17.

{¶ 50} In finding that plaintiff's claim was an ordinary negligence claim, the *O'Dell* Court explained:

> [The patient] was found on the floor of her room at 1:30 a.m. No one witnessed her fall. She was not being transported to or from a medical procedure. There was not any evidence that she was being assisted with any medical equipment for the purpose of receiving medical diagnosis, care, or treatment, nor was she using medical equipment that was ancillary to and an inherently necessary part of a medical procedure. If

> we infer that she was attempting to use the bathroom, her use of the bathroom did not involve the prevention or alleviation of a physical or mental defect or illness. Her injury did not arise out of medical diagnosis, care, or treatment and, therefore, did not give rise to a medical claim. Her claim states a common law general negligence claim, not a medical claim.

Id. at ¶ 49.

{¶ 51} In *Rome*, the Ohio Supreme Court addressed the circumstances under which the allegedly negligent use of medical equipment is considered a "medical claim." The *Rome* Court held that the "term 'medical claim' as defined in R.C. 2305.11 includes a claim for a hospital employee's negligent use of hospital equipment while caring for a patient which allegedly results in an injury to the patient."[11] *Id.* at syllabus.

{¶ 52} *Rome* was a consolidated case involving two separate plaintiffs. One of the plaintiffs was a hospital patient who fell from a wheelchair during transport to physician-ordered physical therapy. The Ohio Supreme Court held that the transport of the patient by hospital staff to physician-prescribed physical therapy was "ancillary to and an inherently necessary part of his physical therapy treatment" and, therefore, his claim was a medical claim because it resulted from the patient's care or treatment. *Id.,* 70 Ohio St.3d at 16.

{¶ 53} As to the other plaintiff, the *Rome* Court also held that her fall was a "medical claim" when a radiological intern failed to fasten the footboard to the base

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[11] We note that just as in *Browning*, in *Rome*, the Ohio Supreme Court defined "medical claim" as used in a prior but analogous version of R.C. 2305.113(E)(3).

of radiology table causing the patient to fall when the table was tilted for the X-ray procedure. The Court stated:

> [W]e find that the process of securing Barbara Rome to a radiology table is ancillary to and an inherently necessary part of the administration of the X-ray procedure which was ordered to identify and alleviate her medical complaints. Furthermore, at the time of her injury, Mrs. Rome was a patient at Flower and was being assisted by an employee of Flower, which employee was required to exercise a certain amount of professional expertise in preparing the patient for X-ray. Accordingly, we conclude that Rome's claim arises out of "medical diagnosis, care, or treatment" relating to the identification and alleviation of a physical or mental illness, disease, or defect.

Id.

{¶ 54} In *Christian*, the plaintiff arrived in her friend's car to the emergency department. *Id.*, 2017-Ohio-7928, at ¶ 3 (2d Dist.). A registered nurse, who was working in the emergency room, brought a wheelchair to the car and attempted to transfer the plaintiff from the car to the wheelchair. "The attempt was unsuccessful, for reasons that are in dispute, and [the plaintiff] ended up on the ground. [The nurse] called for assistance, and [the plaintiff] was lifted onto a gurney and transported into the emergency department." *Id.*

{¶ 55} The Second District Court of Appeals determined that the transfer from the car to the wheelchair was not an inherent part of a medical procedure or physician-ordered treatment and did not give rise to a "medical claim." The *Christian* Court stated, "[The nurse's] act of transferring [the plaintiff] from the [friend's] vehicle to the wheelchair was simply for the purpose of allowing [the

plaintiff] to enter the hospital, where she could then seek medical attention." *Id.* at ¶ 31.

{¶ 56} The *Christian* Court included a summary of cases from other appellate districts that found that injuries alleged from falls gave rise to general negligence claims, not medical claims:

> [C]ourts have held that the plaintiff did not assert a "medical claim" when the injury allegedly arose from (1) falling out of a wheelchair while on the way to lunch at an assisted living facility, *Eichenberger v. Woodlands Assisted Living Residence, L.L.C.*, 2014-Ohio-5354, 25 N.E.3d 355 (10th Dist.); (2) falling while attempting to stand from a wheelchair outside the hospital upon discharge, *Hill v. Wadsworth-Rittman Area Hosp.*, 185 Ohio App.3d 788, 2009-Ohio-5421, 925 N.E.2d 1012 (9th Dist.); (3) falling while going from a hospital bed to the bathroom, *Balascoe v. St. Elizabeth Hosp. Med. Ctr.*, 110 Ohio App.3d 83, 673 N.E.2d 651 (7th Dist.1996); and (4) falling backwards while washing hands in a bathroom while receiving rehabilitative care following surgery, *McDill v. Sunbridge Care Enters. Inc.*, 4th Dist. Pickaway No. 12CA8, 2013-Ohio-1618. In each of these cases, the injury did not arise out of medical diagnosis, care, or treatment.

Id. at ¶ 21, quoting *Christian v. Kettering Med. Ctr.*, 2016-Ohio-1260, ¶ 35 (2d Dist.); *see also Conkin*, 2012-Ohio-2816, at ¶ 9 (1st Dist.) (holding that a nursing home employee did not provide "medical care" when transferring the plaintiff's ward, a resident, from her wheelchair into a Hoyer lift so that the ward could shower).

{¶ 57} In *Hill*, the plaintiff was discharged from an outpatient procedure and the nurse escorted her out of the hospital in a wheelchair. *Id.*, 2024-Ohio-5421 (9th Dist.). The nurse left the plaintiff alone while attending to someone who appeared to be having a heart attack. The plaintiff became impatient to go home, and while

attempting to stand up, she tripped over the wheelchair footrests and fractured her patella. The trial court granted summary judgment in favor of the hospital and nurse.

{¶ 58} On appeal, the Ninth District Court of Appeals reversed the trial court's judgment, finding that the plaintiff's fall while attempting to stand from a wheelchair outside the hospital upon discharge was not ancillary to, or an inherently necessary part of, her treatment, such that the claims were not "medical claims" under R.C. 2305.113. *Id.* at ¶ 17. The *Hill* Court explained:

> At the time of her injury, [the plaintiff] was either discharged or in the final stage of discharge from the hospital. There were no diagnostic tests or treatment activities to be completed before she left the hospital. Accordingly, [the plaintiff] was not injured in the course of the prevention or alleviation of a physical or mental defect or illness. *Browning*, 66 Ohio St.3d at 557. Nor was the transport ancillary to, and an inherently necessary part of, any treatment. *Rome*, 70 Ohio St.3d at 16. Under the definition of "medical claim" in R.C. 2305.113 and as interpreted by *Browning* and *Rome*, this case does not involve a medical claim.

Id.

{¶ 59} With the foregoing definition in mind, we now address whether Freeman's actions constituted "healthcare services." We agree with Carmela that they do not, and the facts of this case are similar to *O'Dell*, *McDill*, *Conkin*, *Hill*, and *Christian* where a patient suffered an injury because of a force separate from the patient's medical care, diagnosis, or treatment. As the *O'Dell* Court stated:

> Falls can either be medical claims or general negligence claims, depending upon the factual circumstances. When a person falls because of the negligent use of medical equipment during a medical procedure, it is a medical claim. . . . However, where the fall does not

> arise out of medical diagnosis, care, or treatment, the fall gives rise to a general negligence claim, not a medical claim.

Id., 2022-Ohio-4156, at ¶ 40, 42 (4th Dist.).

{¶ 60} Here, the record is clear that Isabella was a discharged patient from UH before her fall occurred and Freeman's attempt to move Isabella from the wheelchair to Carmela's vehicle was not being used as an inherently necessary part of a medical procedure. Dr. Sandhu testified that "[Isabella] was medically cleared, from [his] standpoint, for discharge, 100%." (Dr. Sandhu Depo., p. 27-28.) Nor did the wheelchair transport arise out of the course of receiving medical diagnosis, care, or treatment. Dr. Sandhu explained that the details regarding the process of Isabella's discharge were not part of her medical care. He stated that the decision of how many people it would take to transport Isabella was out of his hands and "in the hands of either nursing care, case management, or social work[.]" (Dr. Sandhu Depo., p. 33.) Additionally, the Cuyahoga County Medical Examiner determined that Isabella's cause of death was a "failure to thrive with recent extremity blunt impact injuries," which occurred when she "fell to the ground while being handled." (Isabella's Death Certificate, Mar. 12, 2021.) Lastly, the act of transporting a patient by wheelchair did not require any professional expertise or skill. Freeman testified that her training consisted of occasionally observing how to move patients between wheelchairs and beds; the only equipment she was instructed to use was a Hoyer lift; and the total amount of time that Freeman trained for her transport position was three weeks. Therefore, we conclude that Freeman's act of transferring Isabella

from the wheelchair to Carmela's car was too attenuated from the receipt of medical treatment, care, and diagnosis to constitute "health care services."

{¶ 61} Because the record in this case demonstrates that the wheelchair transport does not constitute "healthcare services," we find, as matter of law, that H.B. 606 does not afford UH immunity. The overwhelming bulk of facts in this case relate not to Isabella's COVID-19 treatment while in the hospital, but rather to the wheelchair transport to her daughter's car following her discharge. We cannot say based upon the record before us that UH's policy for transporting COVID-19 patients is sufficient to establish that it provided health care services as defined in H.B. 606. In the absence of any "healthcare services" provided by UH, this case is an ordinary negligence suit brought by Carmela. Thus, we conclude that UH is not entitled, as a matter of law, to immunity under H.B. 606.

{¶ 62} We note Carmela also argues that this court should not be persuaded by UH's reliance on *Norris v. Basden*, 2024-Ohio-1019 (10th Dist.), for the proposition that transporting a discharged patient by wheelchair to a private vehicle was ancillary to and an inherently necessary part of medical care, making a claim based on that transport a medical claim under R.C. 2305.113(E)(3). We agree with Carmela that *Norris* is distinguishable.

{¶ 63} In *Norris*, the plaintiff's summary judgment response was untimely and stricken from the record, which was a significant factor in the *Norris* Court's rejection of plaintiff's appeal. *Id.* at ¶ 39 ("Foremost, in the cases cited by [plaintiff] that involve summary judgment, the court concluded various claims based on

patient or resident falls were not 'medical claims' only after the plaintiff properly opposed summary judgment and presented the trial court with specific facts showing that a genuine issue exists for trial.") The *Norris* Court further stated that "none of the cases cited by appellant involve uncontested averments by a medical professional that all of their interactions with the plaintiff on the date of injury, including transporting the plaintiff from a wheelchair to a vehicle, were conducted within their role as a medical professional and based on their medical training." *Id.* at ¶ 42.

E. Ordinary Negligence

{¶ 64} Having found that UH's actions did not constitute "healthcare services" under H.B. 606, we next address whether summary judgment was proper on Carmela's ordinary negligence claims.[12] In reaching the determination, we consider the following question: "Does the evidence present 'a sufficient disagreement to require submission to a jury' or is it 'so one-sided that one party must prevail as a matter of law[?]'" *Turner v. Turner*, 67 Ohio St.3d 337, 340 (1993), quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251-252 (1986).

{¶ 65} After carefully reviewing the record and the evidence submitted by the parties in this case, we find that the evidence presents a sufficient disagreement to require submission to a jury. In other words, a genuine issue of material fact exists. Here, there is inconsistent testimony as to whether Isabella's transfer from

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[12] The elements of a negligence claim are (1) a duty, (2) a breach of that duty, and (3) damages proximately caused by that breach. (Citations omitted.) *Texler v. D.O. Summer Cleaners & Shirt Laundry Co.*, 81 Ohio St.3d 677, 680 (1998).

her hospital bed into the wheelchair required two UH employees as opposed to three UH employees. Freeman testified there were "only two [people] in the room." (Freeman Depo., p. 64.) According to Freeman, she "did not tell Carmela [that] 'it took three people to get her into a chair in the room, I don't know how they expect me to do this myself[.]'" (Freeman Depo., p. 64.) Whereas, Carmela testified that Freeman stated to her, "I don't know why they thought I could do this. It took three of us to get her in a wheelchair." (Carmela Depo., p. 144.)

{¶ 66} There is also inconsistent testimony as to whether UH recommended an ambulance transport upon Isabella's discharge. Carmela testified that Cook mentioned during their call on February 18 that they could send Isabella "home in an ambulance" since Carmela was at work. (Carmela Depo., p. 123.) After the incident, Carmela asked Cook why they did not recommend transport for February 19 if Isabella was not able to move and they offered it the previous day. Whereas, Cook testified that she did not recall "offering a transport vehicle when [she] first learned that there was some . . . issue with getting [Isabella] out of the hospital on the 18th[.]" (Cook Depo., p. 29.) However, when Cook spoke with Carmela in the emergency department after Isabella's fall, she recalled Carmela asking her "[W]ho said it was okay to send [Isabella] home in a wheelchair in the car? And why didn't they offer [her] transport to home? That's negligence, and the situation wasn't taken seriously." (Cook Depo., p. 35.)

{¶ 67} In light of the foregoing and when construing the evidence most strongly in Carmela's favor, we find that genuine issues of material fact exist. In

reaching our decision, we are mindful that when ruling on a motion for summary judgment the trial court is not permitted to weigh the evidence or choose among reasonable inferences. *Dupler v. Mansfield Journal Co.*, 64 Ohio St.2d 116, 121 (1980). Rather, the court must evaluate the evidence, taking all permissible inferences and resolving questions of credibility in favor of the nonmoving party. *Id.*

{¶ 68} Accordingly, we find that the trial court's grant of summary judgment in UH's favor was improper.

F. Common Knowledge Exception

{¶ 69} Lastly, Carmela argues that even if her claim is considered a medical claim, the common knowledge exception applies and expert testimony, as contended by UH, is not necessary.

{¶ 70} Carmela maintains that an injury occurring while a patient is transported in a wheelchair is not beyond the experience possessed by a lay person and requires no expert testimony. UH, relying on *Bruni v. Tatsumi*, 46 Ohio St.2d 127 (1976), contends that expert testimony is essential for medical-negligence claims under Ohio law. However, having found that Carmela's claim is an ordinary negligence claim and not a medical claim, the expert testimony required for a medical-malpractice claim involving professional skill and judgment is not implicated by the facts of this case.

{¶ 71} Therefore, we conclude that UH failed to meet its burden on summary judgment, and because genuine issues of material fact remain as to Carmela's negligence claims, UH's motion for summary judgment was improperly granted.

{¶ 72} Therefore, the sole assignment of error is sustained.

{¶ 73} Judgment is reversed, and the matter is remanded for further proceedings.

It is ordered that appellant recover from appellees costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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MARY J. BOYLE, JUDGE

EILEEN T. GALLAGHER, P.J., and
DEENA R. CALABRESE, J., CONCUR