STATE OF MICHIGAN

COURT OF APPEALS

EDWARD SMITH,

Plaintiff-Appellant,

v

HARPER GRACE HOSPITAL, RICHARD ARDEN, M.D., and ROBERT C. KERN, M.D.,

Defendants-Appellees,

and

JOHN DOE, DETROIT MEDICAL CENTER, and DETROIT RECEIVING HOSPITAL,

Defendants.

UNPUBLISHED
March 14, 1997

No. 181321
Wayne Circuit Court
LC No. 94-407121-NO

Before: Corrigan, C.J., and Doctoroff and R.R. Lamb,* JJ.

MEMORANDUM.

Plaintiff appeals by right the order granting summary disposition to defendants pursuant to MCR 2.116(C)(7) (statute of limitations). We affirm.

Although couched in terms of ordinary negligence, plaintiff's claim arose within the course of a professional medical relationship. *Bronson v Sisters of Mercy Health Corp*, 175 Mich App 647, 652-653; 438 NW2d 276 (1989); *Adkins v Annapolis Hosp*, 116 Mich App 558; 323 NW2d 482 (1982). Assuming that negligence in placing incorrect information in a patient's medical chart during hospitalization is "ordinary" negligence so as to excuse the need for expert testimony to establish a breach of the standard of care, the action is not one for ordinary negligence under a three-year statute of limitation. *Locke v Pachtman*, 446 Mich 216, 232-233; 521 NW2d 786 (1994); *Thomas v McPherson Community Health Center*, 155 Mich App 700, 705-706; 400 NW2d 629 (1986).

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

This Court previously has recognized that the ordinary "nonmedical" negligence involved in mislabeling an x-ray or in entering erroneously the interpretation of an x-ray into a medical chart nonetheless are causes of action in malpractice subject to a two-year statute of limitation. *Adkins*, *supra* at 565-565; *Stitt v Mahaney*, 72 Mich App 120, 125; 249 NW2d 319 (1976), rev'd on other grounds 403 Mich 711 (1978). The negligence in plaintiff's case is indistinguishable from these cases and presents a cause of action for malpractice, not for ordinary negligence.

Plaintiff has attempted to separate his malpractice claims against the hospitals from those against the doctors. As indicated by statute, a professional medical relationship involves not only the relationship between a patient and a doctor, but between a patient and the health facility as well:

> For purposes of this act, a claim based on the medical malpractice of a person or entity who is or who holds himself or herself out to be a licensed health care professional, *licensed health facility* or agency, or an employee or agent of a licensed health facility or agency who is engaging in or otherwise assisting in medical care and treatment, whether or not the licensed health care professional, licensed health facility or agency, or their employee or agent is engaged in the practice of the health profession in a sole proprietorship, partnership, professional corporation, or other business entity, accrues at the time of the act or omission that is the basis for the claim of medical malpractice, regardless of the time the plaintiff discovers or otherwise has knowledge of the claim. . . . [MCL 600.5838a(1); MSA 27A.5838(1)(1) (emphasis added).]

Accordingly, the claim was subject to the two-year limitation period contained in MCL 600.5805(4); MSA 27A.5805(4). The trial court properly ruled that plaintiff's claim was barred by the statute of limitation.

Affirmed.

/s/ Maura D. Corrigan
/s/ Martin M. Doctoroff
/s/ Richard Ryan Lamb