



Bowman v. St. John Hospital, 964 N.W.2d 33 (Mich. 2021)

Topics Covered: Abusive Litigation Against Physicians

Outcome: Unfavorable

Issue

The issue in this case was whether a patient can sue her physician for medical malpractice, when the patient only discovered that she had been misdiagnosed after the statute of limitations had run.

AMA Interest

The AMA supports efforts to curb lawsuit abuse against physicians.

Case Summary

In 2013, Kelly Bowman sought treatment from Dr. Tushar S. Parikh, when she noticed a lump in her breast. Dr. Parikh reviewed Bowman's ultrasound and mammogram and interpreted the lump as benign. Subsequent mammograms also showed an apparently benign lump.

However, in 2015, a mammogram indicated that the lump had increased in size. Bowman underwent a biopsy, which revealed that the lump was cancerous. In 2016, a physician told Bowman that Dr. Parikh should have found the tumor to be malignant, rather than benign, in 2013. In 2017, Bowman sued Dr. Parikh and St. John Hospital and Medical Center for medical malpractice.

Defendants moved for summary judgment, arguing that Bowman had failed to serve the notice of claim or file the complaint before the two-year statute of limitations had expired. The trial court denied the motion. Defendants appealed, and the court of appeals found that the trial court had erred in denying the defendants' motion. Bowman should have known, when she received a cancer diagnosis in 2015, that she had been misdiagnosed in 2013.

On July 30, 2021, the Michigan Supreme Court reversed the court of appeals, finding that the statute of limitations defense could only be resolved through a trial. The court remanded the case to the trial court for further proceedings.

Litigation Center Involvement

The Litigation Center, along with the Michigan State Medical Society, filed an *amicus* brief in the Michigan Supreme Court to support the defendants' reading of the statute of limitations.

Michigan Supreme Court Brief