

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDRA CORDERO AND FELIPE
VILLEGAS,
Appellants,
vs.
ORLANDIS L. WELLS, M.D. AND
SOUTHWEST MEDICAL ASSOCIATES,
INC.,
Respondents.

No. 52842

FILED

APR 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in a medical malpractice action. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Having reviewed the briefs and appendices on appeal, we affirm the district court's summary judgment based on appellants' failure to file the complaint within the limitations period. The statute of limitations for medical malpractice commences when the plaintiff "knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action." Massey v. Litton, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983). The district court properly held that the statute of limitations commenced, at the latest, when appellants met with an attorney for the purpose of potentially pursuing a lawsuit. Appellants did not file their complaint until almost two years after consulting with an attorney. Thus, the statute of limitations had expired before appellants filed their complaint. NRS 41A.097(2). Also, appellants' argument that the statute of limitations was tolled under NRS 41A.097(3) fails, as appellants failed to sufficiently establish that they or their attorneys requested the medical

records prior to the expiration of the one-year statute of limitations, and even if they did timely request the records, appellants did not provide evidence of what medical records were concealed or establish the necessity of these records in relation to their medical malpractice action. NRS 41A.097(3). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Elissa F. Cadish, District Judge
Stephen E. Haberfeld, Settlement Judge
Thorndal Armstrong Delk Balkenbush & Eisinger/Las Vegas
Jimmerson Hansen
Eighth District Court Clerk