

SUSAN N. PATRICK et al.

v.

ROBERT A. GROVER

Submitted on Briefs June 26, 2024
Decided July 2, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Susan N. Patrick¹ appeals from three related judgments entered by the Superior Court (Waldo County, *Mills, A.R.J.*) concerning a five-count complaint filed by Patrick against Robert A. Grover alleging medical malpractice and related torts, and Grover's three-count counterclaim asserting that any claims related to a 2009 procedure he performed on Patrick were barred by the applicable statute of limitations, 24 M.R.S. § 2902 (2024).

In the first judgment, following a bench trial, the court found in favor of Grover on counts related to the issue of whether an agreement executed by the parties that tolled the statute of limitations applied to the 2009 procedure or only to care that Grover gave Patrick in 2012. We conclude that on this record the court did not clearly err in finding that there was no meeting of the minds between the parties that would have given rise to a contractual obligation requiring Grover to litigate Patrick's 2009 claim. *See Sarchi v. Uber Technologies, Inc.*, 2022 ME 8, ¶ 15, 268 A.3d 258; *Rice v. Cook*,

¹ Patrick's husband, Urey W. Patrick, is also a plaintiff.

2015 ME 49, ¶ 11, 115 A.3d 86; *Millien v. Colby Coll.*, 2005 ME 66, ¶ 8, 874 A.2d 397.

In the second judgment, the court entered summary judgment for Grover on the counts of Patrick’s complaint alleging medical malpractice, failure to obtain informed consent, and loss of consortium. We conclude that the court did not err in determining, given that the 2009 claim was time-barred, that Patrick’s pleadings related to her 2012 care “fail[ed] to establish a prima facie case for each element of [her] cause of action,” *Kinderhaus N. LLC v. Nicolas*, 2024 ME 34, ¶ 54, 314 A.3d 300 (quotation marks omitted), or otherwise failed as a matter of law, *see Gaudette v. Mainely Media, LLC*, 2023 ME 36, ¶ 13, 296 A.3d 923 (stating that “[a] claim for loss of consortium is a derivative claim that depend[s] on . . . success on [an] underlying claim[]”).

Finally, after striking Patrick’s revised pretrial memorandum of law, the court did not abuse its discretion in imposing as a sanction a requirement that Patrick pay Grover’s attorney fees incurred in responding to the memorandum. *See Dubois v. Town of Arundel*, 2019 ME 21, ¶¶ 12-13, 202 A.3d 524; M.R. Civ. P. 11(a)(6), 12(f).

The entry is:

Judgments affirmed.

Susan N. Patrick and Urey W. Patrick, appellants pro se

Jonathan. W. Brogan, Esq., and Samuel G. Johnson, Esq., Norman, Hanson & DeTroy, LLC, Portland, for appellee Robert A. Grover