

IN THE SUPERIOR COURT OF BIBB COUNTY  
STATE OF GEORGIA

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JUL 20 2005

SUPERIOR COURT OF  
BIBB COUNTY, GEORGIA

MYRTICE F. KIRK, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MEDICAL CENTER OF CENTRAL )  
GEORGIA, INC., and )  
GARY L. HATTAWAY, M.D., )  
 )  
Defendants. )

Civil Action No.: 05-CV-29142

**ORDER GRANTING DEFENDANT GARY L. HATTAWAY, M.D.'S  
MOTION TO DISMISS**

The above-captioned matter came before the Court on Defendant, Gary L. Hattaway, M.D.'s Motions to Dismiss. A hearing on the motions was held on July 19, 2005. After considering the motions, the briefs in support thereof, arguments of the parties and the record for this matter, the Court concludes that the Motions to Dismiss should be granted.

Plaintiff filed her Complaint alleging medical malpractice against Gary L. Hattaway, M.D., and the Medical Center of Central Georgia on April 22, 2005. O.C.G.A. § 9-11-9.1 requires that a plaintiff alleging medical malpractice file contemporaneously with the complaint an expert affidavit setting forth at least one act or omission by the defendants. The Plaintiff failed to file the expert affidavit as required by Georgia law.<sup>1</sup> Accordingly, Plaintiff's Complaint is properly dismissed.

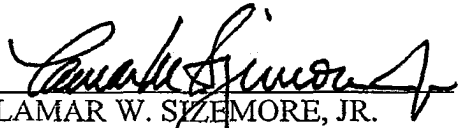
Additionally, O.C.G.A. § 9-11-9.2 requires that a plaintiff filing a medical malpractice action shall be required to file a medical authorization form with the

<sup>1</sup> Plaintiff mistakenly relied on the 45-day extension to file her expert affidavit provided by the old O.C.G.A. § 9-11-9.1. As of July 19, 2005, Plaintiff has still not supplemented her Complaint with an expert affidavit.

complaint and failure to provide the authorization shall subject the complaint to dismissal. O.C.G.A. § 9-11-9.2(a). Plaintiff has failed to file the medical authorization form as required by O.C.G.A. § 9-11-9.2 and for these additional grounds Plaintiff's Complaint is properly dismissed.

Pursuant to O.C.G.A. § 9-11-9.1 and O.C.G.A. § 9-11-9.2, Plaintiff's Complaint is hereby Dismissed With Prejudice.

SO ORDERED, this 19<sup>th</sup> day of July, 2005.

  
LAMAR W. SIZEMORE, JR.  
Judge, Superior Court of Bibb County