

OHIO COURT OF APPEALS, FIRST APPELLATE DISTRICT, HAMILTON
COUNTY

Wilson v. Durrani

2026-Ohio-2279 · No. C-250102, C-250192, C-250193 · Decided June 17, 2026

SUMMARY

The Ohio First District Court of Appeals reversed judgments entered after a joint jury trial involving claims by Carol Wilson, Michael Crail, and David Smith against Abubakar Atiq Durrani, M.D., and the Center for Advanced Spine Technologies. The court held that the plaintiffs’ cases were improperly joined for trial under Ohio Civ.R. 42(A) because they did not present a common question of law or fact resolvable with a single answer by the jury. The cases were remanded for individual trials, and the remaining assignments of error were deemed moot.

CASE DETAILS

COURT	Ohio Court of Appeals, First Appellate District, Hamilton County
WRITING FOR THE COURT	Presiding Judge Kinsley; Judge Nestor; Judge Moore
JURISDICTION	Ohio Court of Appeals, First Appellate District, Hamilton County
DECIDED	June 17, 2026
DOCKET	C-250102, C-250192, C-250193
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed judgments entered after a consolidated jury trial in three medical-malpractice and tort actions. The trial court denied defendants' motion for judgment notwithstanding the verdict or a new trial, including the challenge to joinder under Ohio Civ.R. 42(A).
STANDARD OF REVIEW	A trial court's determination whether actions present a common question under Civ.R. 42(A) is reviewed for abuse of discretion. Harmless error is assessed under Civ.R. 61 by determining whether the error affected substantial justice and whether the trier of fact likely would have reached the same result absent the error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Abubakar Atiq Durrani, M.D., Center for Advanced Spine Technologies v. Carol Wilson, Michael Crail, David Smith

TOPICS

joinder

civil procedure

harmless error

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court properly joined the three plaintiffs' actions for trial under Ohio Civ.R. 42(A).
2. Whether the plaintiffs' actions presented a common question of law or fact capable of common resolution.
3. Whether any error in joining the actions was harmless under Civ.R. 61.

HOLDINGS

1. Civ.R. 42(A) establishes a two-step inquiry: the actions must first present a common question of law or fact, and only then may the trial court exercise discretion to consolidate them after considering efficiency and prejudice.
2. To satisfy Civ.R. 42(A)'s common-question-of-law requirement, cases joined for trial must present at least one question about the defendant's liability that is capable of being resolved with one answer.
3. A common question of fact must be a material factual question capable of being resolved at one time through common proof and must relate uniformly to an element of a common cause of action.
4. The plaintiffs' negligence, battery, fraudulent-misrepresentation, and lack-of-informed-consent claims did not present a common question of law or fact because liability depended on individualized diagnoses, imaging, surgeries, consent circumstances, and injuries.
5. The improper joinder was not harmless under Civ.R. 61 because the split liability verdicts and conflicts between the liability findings and damages awards created a likelihood that the consolidated trial affected the results and deprived Durrani of substantial justice.

KEY QUOTATIONS

"We accordingly hold that, to satisfy Civ.R. 42(A)'s common-question-of-law requirement, cases joined for trial must present at least one question about the defendant's liability that is capable of being resolved with one answer." (¶ 59)

"Because there was no common question here, the trial court abused its discretion in joining the plaintiffs' claims for trial." (¶ 77)

"We accordingly sustain Durrani's assignment of error, reverse the judgment of the trial court, and remand the cause for individual trials." (¶ 93)

FACTUAL BACKGROUND

Wilson, Crail, and Smith separately underwent different spinal surgeries performed by Durrani and alleged that the procedures were medically unnecessary because Durrani misinterpreted or misrepresented their medical

images. Their claims involved individualized diagnoses, surgeries, informed-consent circumstances, injuries, and damages. The cases were tried together, but the jury returned split verdicts: Wilson prevailed on all claims, while Crail and Smith prevailed only on negligence claims, and the damages awards varied substantially.

PROCEDURAL HISTORY

Wilson, Crail, and Smith separately sued Durrani after spinal surgeries they alleged were medically unnecessary. The trial court joined the three cases for a jury trial under Civ.R. 42(A), and the jury returned varying liability and damages verdicts for the plaintiffs. The trial court denied Durrani's post-verdict motion, and Durrani appealed. The First District reversed and remanded for individual trials, holding that the cases lacked a common question of law or fact and that the improper joinder was not harmless.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgments are reversed and the causes are remanded to the Hamilton County Court of Common Pleas for individual trials consistent with the opinion. The remaining assignments of error were deemed moot.

CASES CITED

- Puckett-Morrisette v. Durrani, 2026-Ohio-1444, ¶ 11 (1st Dist.)
- Jones v. Durrani, 2024-Ohio-1776, ¶ 25 (1st Dist.)
- Siuda v. Howard, 2002-Ohio-2292, ¶¶ 1, 12, 16, 30, 55, 107 (1st Dist.)
- Dir. of Hwys. v. Kleines, 38 Ohio St.2d 317, 318-320 (1974)
- Waterman v. Kitrick, 60 Ohio App.3d 7, 14 (10th Dist. 1990)
- In re Cletus P. & Mary A. McCauley Irrevocable Trust, 2014-Ohio-5123, ¶ 16 (5th Dist.)
- Clemente v. Gardner, 2003-Ohio-6017, ¶ 18 (5th Dist.)
- Sears v. Weimer, 143 Ohio St. 312, 316 (1944)
- Food Marketing Inst. v. Argus Leader Media, 588 U.S. 427, 436 (2019)
- Jacobson v. Kaforey, 2016-Ohio-8434, ¶ 8
- State ex rel. Daniels v. Hinkston, 2025-Ohio-3058, ¶ 50 (1st Dist.)
- Hamilton v. Ohio Savs. Bank, 82 Ohio St.3d 67, 77 (1998)
- Grant v. Becton Dickinson & Co., 2003-Ohio-2826, ¶ 36 (10th Dist.)
- Ayers v. KCI Technologies, Inc., 2019-Ohio-3614, ¶ 17 (11th Dist.)
- Barrow v. New Miami, 2016-Ohio-340, ¶ 28 (12th Dist.)
- Neri v. Nissan N. Am., Inc., 122 F.4th 239, 246-247 (6th Cir. 2024)
- Holiday v. Progressive Ins. Co., 2021 U.S. Dist. LEXIS 85792, *2 (D. Utah May 4, 2021)
- Chambers v. Farmers Ins. of Columbus, Inc., 2025-Ohio-5, ¶ 32 (8th Dist.)
- Berdysz v. Boyas Excavating, Inc., 2017-Ohio-530, ¶ 28 (8th Dist.)

- Davenport v. Progressive Direct Ins., 2025-Ohio-2449, ¶ 29 (8th Dist.)
- Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 349-351, 359-360 (2011)
- Cincinnati Bell Tel. Co. v. J.K. Meurer Corp., 2022-Ohio-540, ¶ 22 (1st Dist.)
- Boggs v. Durrani, 2026-Ohio-210, ¶ 67 (1st Dist.)
- Fenner v. Durrani, 2025-Ohio-4477, ¶ 49 (1st Dist.)
- Rio Grande Valley Gas Co. v. City of Pharr, 962 S.W.2d 631, 643 (Tex. App. 1997)
- Setters v. Durrani, 2020-Ohio-6859, ¶ 22 (1st Dist.)
- Osborne v. Osborne, 2015-Ohio-2510, ¶ 35 (4th Dist.)
- Vasquez v. Hillery, 474 U.S. 254 (1986)
- Gates v. Berger, 1996 Ohio App. LEXIS 5175, *7-8 (10th Dist. Nov. 21, 1996)

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