

COURT OF APPEALS OF OHIO, FIRST APPELLATE DISTRICT, HAMILTON COUNTY

Scott v. Durrani

2026-Ohio-2433 · No. C-250426 · Decided June 26, 2026

SUMMARY

The First District Court of Appeals of Ohio affirmed a Hamilton County Court of Common Pleas judgment in favor of Dr. Abubakar Atiq Durrani in a medical-malpractice action. The court rejected the Scotts’ challenges concerning judgment notwithstanding the verdict or a new trial, admission of prior-act evidence under Evid.R. 404(B), and quashing of a subpoena directed to former hospital defendants. The court also held that the incomplete trial transcript prevented full review of the manifest-weight challenge.

CASE DETAILS

COURT	Court of Appeals of Ohio, First Appellate District, Hamilton County
WRITING FOR THE COURT	Crouse, Presiding Judge; Bock, Judge; Nestor, Judge
JURISDICTION	Court of Appeals of Ohio, First Appellate District, Hamilton County
DECIDED	June 26, 2026
DOCKET	C-250426
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the Hamilton County Court of Common Pleas judgment denying their motion for judgment notwithstanding the verdict and/or a new trial and entering final judgment for defendant after a jury verdict rejecting the plaintiffs' medical-malpractice, informed-consent, battery, and fraudulent-misrepresentation claims.
STANDARD OF REVIEW	Civ.R. 50 judgment notwithstanding the verdict is reviewed de novo, viewing the evidence most favorably to the nonmoving party and asking whether reasonable minds could reach only one conclusion in favor of the moving party. A Civ.R. 59 new-trial ruling is reviewed for abuse of discretion when it involves discretionary authority and de novo when it presents a legal issue. Evid.R. 404(B) relevance is reviewed as a legal question, while the balancing of probative value and unfair prejudice is reviewed for abuse of discretion. Discovery rulings are generally reviewed for abuse of discretion, but application

	of privilege law is reviewed de novo. Unpreserved civil errors receive plain-error review only in exceptional circumstances.
PRECEDENTIAL VALUE	Published
PARTIES	Ralph David Scott, Missy Scott v. Abubakar Atiq Durrani, M.D.

TOPICS

medical malpractice standard of care appellate procedure evidence discovery dispute

PRACTICE AREAS

medical malpractice civil procedure evidence appellate procedure health law

QUESTIONS PRESENTED

1. Whether the trial court erred in denying judgment notwithstanding the verdict or a new trial on the fraudulent-misrepresentation claim when the appellate record contained only a partial trial transcript.
2. Whether the trial court improperly permitted defense expert testimony concerning rotational instability and whether any resulting error was harmless.
3. Whether the trial court committed plain error by failing to provide the jury with all of Dr. Tobler's testimony concerning breach of the standard of care in response to a deliberation question.
4. Whether the trial court abused its discretion by excluding three prior appellate opinions involving Durrani under Evid.R. 404(B) and Evid.R. 403(A).
5. Whether the trial court erred in quashing a subpoena to West Chester Hospital and UC Health based on the peer-review privilege.

HOLDINGS

1. When an appellant challenges a judgment as against the weight of the evidence, the appellant must provide all portions of the transcript relevant to the contested issues. Without a complete transcript, the appellate court presumes the validity of the trial court's proceedings and cannot conduct a full manifest-weight review.
2. Any error in allowing defense expert testimony that rotational instability justified the C1-2 fusion would warrant reversal only if it was not harmless and affected the plaintiffs' substantial rights. Because the record was incomplete, the court could not determine prejudice and therefore rejected the claim.
3. The trial court's failure to include Dr. Tobler's additional testimony that unilateral fixation breached the standard of care did not constitute plain error requiring reversal.
4. The trial court did not abuse its discretion in excluding prior appellate opinions involving Durrani because, even if relevant for a nonpropensity purpose, their probative value was substantially outweighed by the danger of unfair prejudice.

5. The trial court properly quashed the subpoena seeking Durrani's privilege-suspension records and credentialing applications because the subpoenaed documents fell within Ohio's statutory peer-review privilege.

KEY QUOTATIONS

“In the absence of a complete transcript, the Scotts have failed to provide an adequate record for a full manifest-weight review.” (¶ 64)

“While this excerpt from Dr. Tobler’s testimony was a direct response to the question that the jury had asked during deliberations, and the trial court should have included it in response to the jury’s question, we cannot hold that the failure to do so amounted to plain error.” (¶ 75)

“We find no abuse of discretion in the trial court’s determination that the probative value of this evidence was substantially outweighed by the danger of unfair prejudice.” (¶ 89)

“Following our review of the record, we find no error in the trial court’s granting of the motion to quash the subpoena.” (¶ 105)

FACTUAL BACKGROUND

Durrani performed multiple spinal surgeries on David Scott, including a C7-T1 fusion in 2010 and a C1-2 fusion in 2011. David alleged that Durrani misrepresented the condition of his spine and the necessity of surgery, failed to provide nonsurgical options or explain risks and benefits, and performed surgery below the standard of care. Plaintiffs' expert Dr. Tobler testified that the C1-2 fusion was not warranted and that Durrani's unilateral fixation breached the standard of care, while defense expert Dr. McCormick testified that the surgeries and treatment met the standard of care. After the 2011 surgery, another physician removed cervical hardware from David's spine.

PROCEDURAL HISTORY

The Scotts first filed a medical-malpractice action in Butler County in 2013 and voluntarily dismissed it in December 2014. They refiled in Hamilton County in 2015. After prior appeals concerning the medical statute of repose and tolling, the claims against Durrani proceeded to a jury trial. The jury found that Durrani was not negligent, did not fail to obtain informed consent, did not commit battery, and did not fraudulently misrepresent the need for surgery. The trial court denied the Scotts' post-trial motion, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- McNeal v. Durrani, 2019-Ohio-5351 (1st Dist.)
- Scott v. Durrani, 2020-Ohio-6932, ¶ 1
- Wilson v. Durrani, 2020-Ohio-6827
- Scott v. Durrani, 2021-Ohio-4740, ¶¶ 5-6, 15 (1st Dist.)

- Ravenscraft v. Durrani, 2025-Ohio-2900, ¶ 95 (1st Dist.)
- Courtney v. Durrani, 2025-Ohio-2335, ¶ 61 (1st Dist.)
- Hartt v. Munobe, 1993-Ohio-177, ¶ 15
- Lyons v. Kindell, 2015-Ohio-1709, ¶ 42 (1st Dist.)
- Knapp v. Edwards Laboratories, 61 Ohio St.2d 197, 199 (1980)
- WWW.Headhunting.Org, LLC v. Logicalis, Inc., 2006-Ohio-2619, ¶¶ 21-22 (1st Dist.)
- Bender v. Durrani, 2024-Ohio-1258, ¶¶ 92-93 (1st Dist.)
- Kelley v. Horton, 2025-Ohio-5252, ¶ 22 (1st Dist.)
- State ex rel. Target Auto Repair v. Morales, 2022-Ohio-2062, ¶ 15
- Goldfuss v. Davidson, 1997-Ohio-401, syllabus
- State v. Hartman, 2020-Ohio-4440, ¶¶ 22, 26-30
- State v. Worley, 2021-Ohio-2207, ¶ 125
- Oberlin v. Akron Gen. Med. Ctr., 2001-Ohio-248, ¶ 19
- Adams v. Durrani, 2022-Ohio-60 (1st Dist.)
- Fenner v. Durrani, 2025-Ohio-4477 (1st Dist.)
- Setters v. Durrani, 2020-Ohio-6859 (1st Dist.)
- Pierce v. Durrani, 2015-Ohio-2835, ¶ 42 (1st Dist.)
- Stephenson v. Durrani, 2023-Ohio-2500, ¶ 47 (1st Dist.)
- Houchell v. Durrani, 2023-Ohio-2501, ¶ 60 (1st Dist.)
- Schram v. Masadeh, 2024-Ohio-1662, ¶ 16 (1st Dist.)
- Spurgeon v. Mercy Health-Anderson Hosp., L.L.C., 2020-Ohio-3099, ¶¶ 11-12 (1st Dist.)
- Bansal v. Mt. Carmel Health Sys., Inc., 2009-Ohio-6845, ¶¶ 14-15 (10th Dist.)