

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

Miles v. Cleveland Clinic Health Sys.-E. Region

2026-Ohio-190 · No. No. 115648 · Decided January 22, 2026

SUMMARY

The Ohio Eighth District Court of Appeals affirmed and remanded an order compelling payment of an expert witness's deposition fee in a medical-negligence and wrongful-death action. The court held that the trial court retained jurisdiction to resolve the collateral issue of deposition costs after final judgment and dismissal of remaining claims. It also concluded that the appellant failed to establish that the \$3,500 fee was unreasonable or unsupported, while remanding for entry of an order requiring payment of the reduced balance of \$2,000.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Eileen A. Gallagher; Michael John Ryan; Anita Laster Mays
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	January 22, 2026
DOCKET	No. 115648
DISPOSITION	affirmed_and_remanded
PROCEDURAL POSTURE	Miles appealed the trial court's order compelling payment of an expert witness's deposition fee after the jury returned a verdict for Dr. Wallen and the remaining defendants were dismissed. She challenged the trial court's subject-matter jurisdiction and the reasonableness and legal basis for the fee.
STANDARD OF REVIEW	A trial court's decision concerning a discovery issue is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Robyn D. Miles, individually and as administrator of the estate of Sydney Mariah Perryman, et al. v. Cleveland Clinic Health System-East Region, et al., Michelle F. Wallen, D.O.

TOPICS

discovery dispute

subject matter jurisdiction

civil procedure

appellate procedure

standard of review

PRACTICE AREAS

civil procedure

discovery

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medical malpractice

wrongful death

QUESTIONS PRESENTED

1. Whether the trial court retained subject-matter jurisdiction to decide a motion to compel payment of an expert deposition fee after final judgment and dismissal of the remaining claims.
2. Whether the trial court abused its discretion by compelling payment of the expert deposition fee under Civ.R. 26(B)(7)(c).
3. Whether the compelled fee was excessive, disproportionate, unsupported, or otherwise contrary to Civ.R. 26(B)(1) and (7).

HOLDINGS

1. A trial court retains jurisdiction after final judgment or dismissal to decide collateral issues unrelated to the merits, including expert witness fees and deposition costs. The trial court therefore had jurisdiction to rule on Dr. Wallen's motion to compel.
2. Civ.R. 26(B)(7)(c) requires disclosure of an expert's compensation, but attaching the fee schedule to the expert report satisfied the disclosure requirement in this case. Even if the fee schedule's attachment rather than inclusion in the report violated the rule, the rule's stated consequence is that the expert may not testify; it does not eliminate the obligation to pay the expert's deposition fee.
3. Civ.R. 26(B)(7)(h)(iii), which requires payment of a reasonable fee for time spent in deposition, did not apply because Dr. Pinar was identified as a testifying expert rather than an expert employed only for trial preparation.
4. The trial court did not abuse its discretion by compelling Miles to pay the deposition fee. Miles knew of the flat fee before taking the deposition, questioned the expert about it, failed to challenge its reasonableness before the deposition, and presented no evidence beyond her own assertions that the fee was unreasonable.

KEY QUOTATIONS

“Generally, a trial court loses jurisdiction over a case after entering final judgment.” (Section II.A)

“However, in ABN AMRO Mtge. Group, Inc. v. Evans, 2011-Ohio-5654, ¶ 6 (8th Dist.), this court held that “[w]hile a Civ.R. 41(A)(1) voluntary dismissal generally divests a court of jurisdiction, a court may still consider collateral issues not related to the merits of the action.”” (Section II.A)

“The fact that it was not in his report but rather was attached to his report is inconsequential.” (Section II.B)

“In short, the court ordered Miles to pay Dr. Pinar what she implicitly agreed to pay him when she took his deposition.” (Section II.B)

FACTUAL BACKGROUND

Dr. Wallen disclosed Dr. Hilat Pinar as a testifying expert and filed his expert report and fee schedule before Miles deposed him. The disclosed schedule stated that depositions carried a flat fee of \$3,500 for up to 3.5 hours, and Miles's counsel knew of and questioned Dr. Pinar about the fee before or during the deposition. Miles paid only \$500 of the invoiced fee and did not challenge its reasonableness until opposing Dr. Wallen's later motion to compel payment.

PROCEDURAL HISTORY

Miles sued Cleveland Clinic entities and health-care providers for wrongful death, medical negligence, and loss of consortium. The trial court granted Dr. Wallen summary judgment, but the Eighth District reversed and remanded in Miles I. After a jury verdict for Dr. Wallen and dismissal of the remaining defendants, the trial court granted Dr. Wallen's motion to compel payment of Dr. Pinar's deposition fee. The Eighth District affirmed the verdict in Miles II and, in this appeal, affirmed the fee order while remanding for entry of an order requiring payment of a reduced balance.

DISPOSITION

affirmed_and_remanded

REMAND INSTRUCTIONS

The trial court must issue a journal entry ordering Miles to pay Dr. Pinar the remaining \$2,000 of the deposition fee, reflecting Dr. Wallen's counsel's concession that Dr. Pinar would accept \$2,500 as payment in full under his modified fee schedule.

CASES CITED

- Miles v. Cleveland Clinic Health Sys.-E. Region, 2023-Ohio-2582 (8th Dist.)
- Miles v. Cleveland Clinic Health Sys.-E. Region, 2025-Ohio-5628 (8th Dist.)
- State ex rel. Mather v. Oda, 2023-Ohio-3907, ¶ 1
- Phoenix Lighting Group, L.L.C. v. Genlyte Thomas Group, L.L.C., 2024-Ohio-5729, ¶ 20
- Tower City Properties v. Cuyahoga Cty. Bd. of Revision, 49 Ohio St.3d 67, 69 (1990)
- ABN AMRO Mtge. Group, Inc. v. Evans, 2011-Ohio-5654, ¶ 6 (8th Dist.)
- Jefferson Capital Sys. v. Gibson, 2019-Ohio-4793, ¶ 19 (8th Dist.)
- State ex rel. Hummel v. Sadler, 2002-Ohio-3605, ¶ 25
- Barrett v. Singer Co., 60 Ohio St.2d 7, 11 (1979)
- Vance v. Marion Gen. Hosp., Inc., 2006-Ohio-146, ¶ 15 (3d Dist.)
- Ward v. Summa Health Sys., 2010-Ohio-6275, ¶ 13
- Johnson v. Abdullah, 2021-Ohio-3304, ¶ 35
- In re G.C.B., 2024-Ohio-74, ¶ 15 (8th Dist.)

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