

SUPERIOR COURT OF THE STATE OF DELAWARE

Fletcher v. Select Specialty Hospital

Fletcher · No. C.A. No. N25C-08-213 KMM · Decided January 15, 2026

SUMMARY

The Delaware Superior Court reviewed a supplemental affidavit of merit filed in a pro se medical negligence action against Select Specialty Hospital. The court found that the affidavit failed to satisfy statutory requirements, including opinions regarding breach of the standard of care and proximate causation, expert qualifications, and attachment of a curriculum vitae. Because the plaintiff had already received additional opportunities to comply, the court held that the case could not proceed and stated that a separate dismissal order would be entered.

CASE DETAILS

COURT	Superior Court of the State of Delaware
WRITING FOR THE COURT	Kathleen M. Miller
JURISDICTION	Superior Court of the State of Delaware
DECIDED	January 15, 2026
DOCKET	C.A. No. N25C-08-213 KMM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se medical negligence action without the affidavit of merit required by 18 Del. C. § 6853. After the court twice granted additional time to cure deficiencies, defendant renewed its motion to review the affidavit and motion to dismiss. The court reviewed the supplemental affidavit in camera and dismissed the action.
STANDARD OF REVIEW	Review of whether the submitted affidavit of merit complied with the mandatory requirements of 18 Del. C. § 6853.
PRECEDENTIAL VALUE	Published Superior Court of Delaware opinion
PARTIES	Doreen Fletcher v. Select Specialty Hospital

TOPICS

- medical malpractice
- motions to dismiss
- medical licensing
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the supplemental affidavit of merit complied with 18 Del. C. § 6853(a)(1), including the requirements that the expert identify reasonable grounds to believe the applicable standard of care was breached and that the breach proximately caused the alleged injuries.
2. Whether the court could dismiss the medical negligence action after plaintiff failed, despite two additional opportunities, to submit a statutorily compliant affidavit of merit.

HOLDINGS

1. The supplemental affidavit did not comply with 18 Del. C. § 6853(a)(1) because it failed to state that the applicable standard of care was breached by Select Specialty and that the breach proximately caused the alleged injuries and death; it also failed to establish the expert's required same-or-similar-field experience and failed to attach a curriculum vitae.
2. The action could not proceed and was dismissed because plaintiff failed to comply with the mandatory affidavit-of-merit statute after receiving two additional opportunities to cure the deficiencies.

KEY QUOTATIONS

“Without a proper affidavit, a complaint sounding in medical negligence is insufficient and the statute of limitations will not be tolled.” (at 5)

“But because of the failure to comply with the statute, the case cannot proceed and will be dismissed.” (at 6)

FACTUAL BACKGROUND

Fletcher alleged that Select Specialty Hospital discharged her husband to Cadia Pike Creek Nursing Home without care instructions, leaving nursing-home staff uncertain about his care. Her husband's condition deteriorated, he was transferred to Christiana Hospital, and he died on December 20, 2023. The expert affidavits submitted by Fletcher did not opine that Select Specialty breached the applicable standard of care or that any breach proximately caused the alleged injuries and death, and they did not establish the expert's required practice or teaching experience or include a curriculum vitae.

PROCEDURAL HISTORY

Fletcher filed the action on August 25, 2025. Select Specialty moved to review the affidavit of merit and to dismiss for failure to file a compliant affidavit. Following a November 6, 2025 hearing, the court granted an extension, but found the November 19 affidavit deficient and gave plaintiff one additional opportunity to correct it. Plaintiff filed a supplemental affidavit on January 5, 2026; the court found it materially deficient and ordered dismissal.

DISPOSITION

dismissed

CASES CITED

- Parsons v. DuShuttle, 2019 WL 1131956, at *2 (Del. Super. Mar. 8, 2019)
- Enhaili v. Patterson, 2018 WL 2272767, at *2-*3 & n.35 (Del. Super. Apr. 23, 2018)
- Dishmon v. Fucci, 32 A.3d 338, 345 (Del. 2011)

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