

IN THE SUPREME COURT OF THE STATE OF NEVADA

BETH SMITH; AND FRED SMITH,
Appellants,
vs.
DAVID J. CLONTS, D.D.S.,
Respondent.

No. 56905

FILED

SEP 15 2011

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *H. Ingersoll*
DEPUTY CLERK

This is an appeal from a district court summary judgment in a dental malpractice action. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

Having reviewed the briefs and appendices on appeal, we affirm the district court's summary judgment based on appellants' failure to file the complaint within the limitations period. The statute of limitations for medical malpractice commences when the plaintiff "knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action." Massey v. Litton, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983). The district court properly held that appellants had inquiry notice more than one year before their complaint was filed, and therefore, the statute of limitations expired before appellants filed their complaint. NRS 41A.097(2); Bemis v. Estate of Bemis, 114 Nev. 1021, 1024, 967 P.2d 437, 439 (1998). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Fourth Judicial District Court Dept. 2, District Judge
Carolyn Worrell, Settlement Judge
White & Wetherall, LLP/Reno
Law Office of Arthur W. Tuverson
Elko County Clerk