

## **SUMMARY STATEMENT**

*Evans v. Wright*  
Docket No. 50094

This case concerns a medical malpractice action arising from a total hip replacement surgery performed on Roberta Evans by Dr. Mark B. Wright at St. Luke's Magic Valley Regional Medical Center. In the months after the surgery, Evans consistently complained about pain and discomfort at several follow-up appointments. After the pain persisted, she sought a second opinion from a doctor who confirmed that Evans's hip bone socket was abnormally anteverted. Evans underwent revision surgery, which also revealed significant findings of periprosthetic joint infection.

Evans initiated a lawsuit against Dr. Wright and St. Luke's, alleging negligence in their follow-up care and treatment of her. Wright and St. Luke's both filed motions to dismiss Evans's complaint, arguing that Evans's cause of action was barred by the two-year statute of limitations under Idaho Code section 5-219(4). In response, Evans filed a declaration supporting her response and a motion to convert the respective motions to dismiss them to a motion for summary judgment so that the district court could consider more than just her complaint. She also raised an equitable estoppel response to Wright's and St. Luke's statute of limitations defense. The district court dismissed the case, finding that the two-year statute of limitations barred her cause of action. Evans appealed, arguing that the district court erred in (1) holding that her post-operative symptoms commenced the running of the statute of limitations, (2) denying her motion for reconsideration and alternative motion for leave to amend her complaint, (3) denying her motion to convert the motion to dismiss to a motion for summary judgment, and (4) failing to consider her argument that the doctrine of equitable estoppel prevented Wright and St. Luke's from asserting the statute of limitations as a defense.

The Idaho Supreme Court affirmed the district court's holding that Evans's claim was barred by Idaho Code section 5-219(4)'s two-year statute of limitations. First, the Court addressed Wright's and St. Luke's motion to dismiss Evans's appeal to the Supreme Court. The Court held that the appeal was timely because Evans filed her notice of appeal within 42 days after the district court entered an order on Evans's motion for reconsideration. Second, the Court concluded that the district court made an implicit ruling while deciding Wright's and St. Luke's motion to strike that was tantamount to a rejection of Evans's motion to convert. Therefore, Evans's argument regarding her motion to convert was preserved for appeal. Third, the Court held that the district court erred in concluding that conversion of a motion to dismiss to a motion for summary judgment only occurs when the moving party submits matters outside the pleadings, but that the district court had discretion to not consider matters outside the pleadings. Fourth, the Court held that the district court did not err in dismissing Evans's complaint as time-barred under Idaho Code section 5-219(4) because she had some damage that was objectively ascertainable more than two years before she commenced her pre-litigation screening. Fifth, the Court held that the district court erred by failing to consider Evans's equitable estoppel argument. However, the error was harmless because Evans did not satisfy the elements of an equitable estoppel claim. Finally, the Court held that neither party is entitled to attorney fees on appeal.

**\*\*\* *This summary constitutes no part of the Court's opinion. It has been prepared by court staff for the convenience of the public.* \*\*\***