

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 96-1975

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ROBERT F. ORYE,

Plaintiff - Appellant,

versus

KAISER FOUNDATION HEALTH PLAN OF THE MID-  
ATLANTIC STATES, INC., d/b/a Kaiser Perma-  
nente; CAPITAL AREA PERMANENTE MEDICAL GROUP,  
P.C.,

Defendants - Appellees,

and

KAREN FANUCCI, M.D.,

Defendant.

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Appeal from the United States District Court for the Eastern Dis-  
trict of Virginia, at Alexandria. Claude M. Hilton, District  
Judge. (CA-96-146-A)

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Argued: May 6, 1997

Decided: May 23, 1997

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Before WILKINSON, Chief Judge, WILKINS, Circuit Judge, and TRAXLER,  
United States District Judge for the District of South Carolina,  
sitting by designation.

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Affirmed by unpublished per curiam opinion.

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**ARGUED:** Robert Benbow Adams, ASHCRAFT & GEREL, Alexandria, Virginia, for Appellant. Bernard Garrett Feord, Jr., PLEDGER & ASSOCIATES, McLean, Virginia, for Appellees. **ON BRIEF:** R. Harrison Pledger, Jr., PLEDGER & ASSOCIATES, McLean, Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Robert Orye sued the Kaiser Foundation Health Plan and Dr. Karen Fanucci, a Kaiser physician, alleging medical malpractice. He contended that Dr. Fanucci had intentionally misdiagnosed his multiple myeloma, a cancer of the plasma cells, as a problem related to taking the anti-inflammatory drug Motrin. The defendants moved for summary judgment based on Virginia's two-year statute of limitations for personal injuries. Va. Code § 8.01-243(A). In response, Orye argued that Dr. Fanucci had fraudulently and intentionally withheld the diagnosis from him, thus tolling the statute of limitations under Va. Code § 8.01-243(C)(2). The district court rejected Orye's argument and granted summary judgment to the defendants, finding that there was no evidence that any defendant had "intentionally concealed the illness."

Our review of the record and the appropriate legal standards in this case persuades us that the decision of the district court was correct. We therefore affirm the judgment on the reasoning set forth in the district court's careful memorandum opinion. Orye v. Kaiser Foundation Health Plan, CA 96-146-A (E.D. Va. July 2, 1996).

AFFIRMED