SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1923-20

MARYANNE CENNI,

Plaintiff-Appellant,

v.

LABORATORY CORPORATION OF AMERICA HOLDINGS, DEIRDRE S. BARBER, CT, CYNTHIA B. OUELLETTE, CT, JAN M. FRIES, CT, GMT, CT (ASCP), and MDC, CT (ASCP),

Defendants,

and

QUEST DIAGNOSTICS INCORPORATED,

Defendant/Third-Party Plaintiff-Respondent,

v.

GARY R. BRICKNER, M.D.,

Third-Party Defendant.

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Argued December 20, 2022 – Decided May 23, 2023

Before Judges Messano, Rose and Paganelli.

On appeal from the Superior Court of New Jersey, Law Division, Middlesex County, Docket No. L-0870-17.

E. Drew Britcher argued the cause for appellant (Britcher Leone & Sergio, LLC, attorneys; E. Drew Britcher, of counsel and on the briefs; Jessica E. Choper, on the briefs).

Michael T. Hensley argued the cause for respondent (Carlton Fields, PA, attorneys; Michael T. Hensley, of counsel and on the brief; Lauren Fenton-Valdivia and Andrea L. Bonvicino, on the brief).

PER CURIAM

In this medical malpractice action, plaintiff Maryanne Cenni alleged that Laboratory Corporation of America Holdings and its employees (collectively LabCorp) failed to properly interpret plaintiff's annual cervical cytology (Pap smear) slides, leading to a delay in the diagnosis of plaintiff's cervical cancer until March 2015, by which time it had already advanced to stage four. Plaintiff's expert pathologist, Dr. Michael W. Kaufman, reviewed the 2013 and 2014 slides taken during plaintiff's annual exam by her gynecologist, Dr. Gary Brickner. Dr. Kaufman opined to a reasonable degree of medical and pathologic certainty, LabCorp's findings that both slides were read as "'negative for intraepithelial lesion or malignancy' . . . [, were] well below acceptable standards

of care in the appropriate reading of Pap smears and [we]re each negligently diagnosed." Even though he had not seen the slides taken by Dr. Brickner during plaintiff's 2012 examination, Dr. Kaufman also suspected that given the advanced status of cancer cells seen on the 2013 slide, it was probable that plaintiff's 2012 Pap smear slide would also reveal malignant cells.

Plaintiff filed her initial complaint in February 2017, claiming LabCorp's negligence in reading the 2013 and 2014 slides delayed diagnosis of her cervical cancer; the complaint also included claims against fictitiously-named parties. In particular, the sixth count of the complaint alleged a fictitiously-named cytotechnologist employed by LabCorp misread plaintiff's October 24, 2012 Pap smear slides.[1]

In fact, the 2012 slides were not submitted to LabCorp but rather to Quest Diagnostics, Inc., and interpreted by cytotechnologists identified only as defendants GMT, CT (ASCP), and MDC, CT (ASCP) (collectively, Quest). Dr. Kaufman issued a supplemental expert report shortly after examining the 2012 slides and similarly opined Quest's finding that the slides were "'negative for intraepithelial lesion or malignancy' . . . fell outside of, and below, acceptable

[1] LabCorp and its employees ultimately settled with plaintiff in 2019 and were dismissed from the litigation.

professional or occupation standards or treatment practices." Plaintiff's second amended complaint, filed October 31, 2017, named Quest and its cytotechnologist employees as defendants, alleging they had misread plaintiff's 2012 Pap smear slides, and their negligence had contributed to the delay in diagnosing plaintiff's cervical cancer.[2]

Before filing an answer, Quest moved to dismiss the complaint, contending it was filed beyond the applicable two-year statute of limitations (SOL), see N.J.S.A. 2A:14-2(a), and plaintiff had not acted diligently, allowing her to benefit from the fictitious-party rule, Rule 4:26-4. During oral argument, defense counsel contended the Court's decision in Matynska v. Fried, 175 N.J. 51 (2002), was controlling precedent, because that decision required plaintiff to "obtain all of her medical records to ascertain all potentially culpable parties." Defense counsel argued that plaintiff never sought to obtain all of her "gynecologist['s] records."

Plaintiff contended that despite her diligence, she was unaware that Quest had examined the 2012 slides until July 2017 and had not physically obtained the 2012 slides until plaintiff's counsel and Quest executed a "Slide

[2] Defendants GMT, CT (ASCP), and MDC, CT (ASCP), have not participated in this appeal.

Custody Agreement" on August 30, 2017. Plaintiff countered that she acted diligently thereafter to file her amended complaint against Quest.

After converting the motion into one seeking summary judgment, the judge denied Quest's motion to dismiss the complaint by specifically concluding that plaintiff had acted diligently. When Quest raised the possibility of re-visiting the issue via a summary judgment motion after discovery, the judge did not foreclose that possibility but stated there was "enough" of a factual record to make the legal determination, and there was no need for further discovery on the SOL issue.

Quest filed an answer, discovery ensued, and Quest moved for summary judgment alleging that based on newly-obtained evidence, plaintiff's amended complaint against Quest should be dismissed because it was filed beyond the two-year SOL. The litigation was now before a different judge who agreed and granted Quest's motion.

Plaintiff moved for reconsideration, which the judge denied after holding a two-day Lopez[3] hearing. The judge reaffirmed his prior dismissal of the amended complaint with prejudice, and this appeal followed.

[3] Lopez v. Swyer, 62 N.J. 267, 272 (1973) (adopting the "discovery rule" that delays accrual of a cause of action "until the injured party discovers, or by an

Plaintiff argues the judge misapplied the discovery rule because it was not until she obtained the 2012 Pap smear slides and had her expert review them that she was able to identify Quest as a potentially responsible party. Plaintiff also contends that she properly invoked the fictitious party rule, and therefore, the judge erred in dismissing the complaint.

Quest counters the judge properly applied the discovery rule and the fictitious party rule and did not mistakenly exercise his discretion in denying reconsideration. We have considered the arguments and reverse.[4]

I.

We primarily focus our attention on events that followed the first judge's denial of Quest's motion to dismiss plaintiff's amended complaint based upon expiration of the SOL.

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exercise of reasonable diligence and intelligence should have discovered that he [or she] may have a basis for an actionable claim").

[4] As a result, we need not consider plaintiff's additional arguments that the judge erred in quashing the subpoena she served on Dr. Brickner, thereby foreclosing her attempt to have him testify at the Lopez hearing, and that the judge erred by imputing the purported knowledge of her prior counsel to her current counsel in concluding plaintiff knew or should have known of a possible claim against Quest.

In June 2019, Quest deposed Dr. Brickner.[5] He had been plaintiff's gynecologist since the early 1990s. In 2009, he submitted plaintiff's Pap smear slide to Quest, which interpreted the specimen as positive for "[a]typical [s]quamous [c]ells of [u]ndetermined [s]ignificance." Dr. Brickner said the finding was concerning but the course of treatment was to monitor plaintiff on an annual basis. All of plaintiff's annual Pap smear slides that followed were read as negative, until 2015. Dr. Brickner confirmed plaintiff's cancer diagnosis in May 2015.

Dr. Brickner referenced letters he received seeking plaintiff's records from attorney Diane Mary Dobbs of Kalavruzos, Mumola, Hartman & Lento (KMH&L), a law firm plaintiff consulted shortly after the diagnosis. In accordance with his September 22, 2015 response to counsel's second request for plaintiff's records, Dr. Brickner testified he had "sent what we had, and [he] referenced the previous practice [he] was associated with for additional records." Dr. Brickner agreed with counsel's question that he had sent all of plaintiff's medical records that his practice possessed and had provided the address where counsel could obtain plaintiff's pre-2002 records. However, Dr.

[5] Quest had named Dr. Brickner as a third-party defendant in December 2018, but by the time he was deposed, the judge had granted the doctor's motion to dismiss with prejudice.

Brickner also testified that his "[o]ffice manager [or] whoever she delegated it to" was responsible for responding to plaintiff's counsel's requests.

Quest moved for summary judgment seeking to dismiss plaintiff's amended complaint with prejudice for failure to meet the statute of limitations. It specifically argued that this newly-obtained discovery — Dr. Brickner's deposition testimony — demonstrated plaintiff was in possession of Quest's 2012 Pap smear report as early as September 2015, not July 2017 as her current counsel had claimed. For support, Quest relied on the two letters KMH&L sent on July 31 and September 11, 2015, respectively, requesting plaintiff's complete medical records and confirming their receipt, and Dr. Brickner's letter of September 22, 2015, confirming that he had sent all medical records in his possession to KMH&L. Quest argued that because of their attorney-client relationship, any information KMH&L had received was imputed to plaintiff and, in turn, to her current counsel.

Plaintiff argued, however, that she did not retain KMH&L to file suit on her behalf, but rather she only consulted with the firm. Plaintiff again asserted that she had not received the 2012 Pap smear report identifying Quest as the examining laboratory until July 8, 2017.

On January 16, 2020, the second judge granted Quest's motion and dismissed plaintiff's amended complaint with prejudice. He explained his reasons in an oral opinion, concluding that although he was "not crazy about th[e] result,"

> KMH&L's possession of the 2012 [P]ap smear report gave notice to the plaintiff of a possible claim against [Quest]. It was imputed to the plaintiff on September 22[], 2015. Therefore, the statute of limitations for claims against Quest would have run on September 22, 2017.
>
> While the plaintiff did not ultimately pursue a legal endeavor with KMH&L, she did sign a medical authorization for KMH&L and KMH&L presented themselves as representing the plaintiff in their request for medical records. . . .
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> Furthermore, because [of] plaintiff's interaction with KMH&L, plaintiff, or plaintiff's current [c]ounsel could have simply requested the files produced to KMH&L during the investigation of plaintiff's possible claims.

Accordingly, the judge reasoned that the SOL had already expired when plaintiff filed her amended complaint against Quest "one month and several days" after September 22, 2017.[6]

[6] We note that plaintiff moved to amend her complaint and add Quest on September 18, 2017, four days before the date the judge determined was the expiration date of the two-year SOL. For the reasons that follow, we need not

Plaintiff moved for reconsideration, or alternatively to conduct a Lopez hearing, arguing there was a genuine dispute of material fact whether an attorney-client relationship existed with KMH&L, and there was no proof that KMH&L had received plaintiff's complete medical records from Dr. Brickner, including specifically Quest's 2012 report regarding plaintiff's Pap smear slides. The judge's April 24, 2020 order denied plaintiff's reconsideration motion without prejudice and allowed her to "refile[the motion] upon completion of a Lopez [h]earing."

Plaintiff subpoenaed Dr. Brickner for the hearing, but both he and Quest moved to quash the subpoena. The judge entered an order on January 11, 2021, limiting the scope of the Lopez hearing to the following three issues:

> 1. Has [p]laintiff presented evidence to rebut the existing factual record that an attorney-client relationship was created between KMH&L and [p]laintiff?

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consider whether the doctrine of substantial compliance provides a different path toward reversal. See, e.g., Schmidt v. Celgene Corp., 425 N.J. Super. 600, 610–11 (App. Div. 2012) ("[T]his doctrine has . . . been applied where 'the injured party [is] seeking flexibility' and 'core policy considerations about fault and responsibility' tip the balance 'in favor of allowing an injured party to have [their] day in court, rather than being met with a closed courthouse door.'" (first alteration in original) (quoting Sroczynski v. Milek, 197 N.J. 36, 60–61 (2008) (Rivera-Soto, J., concurring in part and dissenting in part)).

> 2. Has [p]laintiff presented evidence to rebut the existing factual record that Dr. Brickner sent KMH&L a copy of the 2012 [P]ap report in September 2015?
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> 3. Whether [p]laintiff has presented sufficient evidence of her current counsel's due diligence in attempting to ascertain all potentially culpable parties to invoke the fictitious pleading rule?

The order contained the names of seven potential witnesses who either party was free to call for the hearing, including Dr. Brickner, subject to the court's decision on the pending motions to quash the subpoena. The order also said "pursuant to [the] consent of the parties, the deposition of Dr. Gary Brickner may be read into evidence, subject to any objections other than hearsay[.]"

In a separate order, the judge quashed plaintiff's subpoena served on Dr. Brickner. Critically, in a written decision that accompanied that order which also barred plaintiff from introducing certain exhibits at the hearing, the judge wrote:

> As to issue three, it is not in dispute that [p]laintiff did not actually know that the slides were misread prior to her current counsel's expert's review of them. At issue is when [p]laintiff should have known same. . . . [A] review of the [e]xhibits leads this [c]ourt to conclude that they are not relevant as to when KMH&L and [p]laintiff's current counsel should have known of Quest's potential liability.
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> [(First emphasis added).]

Plaintiff, Dobbs, and plaintiff's former brother-in-law, an attorney who obtained the records from plaintiff and forwarded them to her current counsel's firm, testified. Dobbs had no independent memory of plaintiff or her medical records, and she relied on her file notes and memoranda to testify. The thrust of that testimony was that although she sent the September 2015 letter to Dr. Brickner thanking him for his "office records from 2012 to 2015," the memo in her file indicated that in reviewing the records Dobbs made no notes regarding any documents or reports from 2012. Dobbs said she had no knowledge that Quest had reviewed any of plaintiff's Pap smear slides.

Armand Leone, Jr., a partner in the firm currently representing plaintiff and a medical doctor, also testified. When he received plaintiff's records from her former brother-in-law, he saw that LabCorp had tested plaintiff's 2013 and 2014 samples, and that a sample was taken in 2012. But the records did not reveal which lab analyzed the 2012 sample and no 2012 lab report was included with the documents. Noting the advanced stage of plaintiff's cancer in 2015, Leone suspected the 2013 and 2014 samples had been misread. Although he had obtained the 2013 and 2014 slides from LabCorp and sent requests for its 2012 report, it was not until April 20, 2017, that LabCorp responded and advised

that it had not performed any analysis in 2012 and did not have any slides from that year.

Leone first requested plaintiff's records from Dr. Brickner in May 2016, and that yielded a response that contained only twelve documents. Leone sent a second and then a third request in April and May 2017; those yielded fifty pages of documents. He testified that they did not include Quest's 2012 report. Consequently, Leone subpoenaed Dr. Brickner. Dr. Brickner's counsel responded and sent Leone a 177-page Bates-stamped set of plaintiff's records in July 2017. Page fifty-five of those documents was Quest's 2012 report interpreting plaintiff's Pap smear as negative for cancerous cells. Leone testified this was "the first time" he knew that Quest had done the 2012 study. He immediately reached out to Quest to get custody of the 2012 slides, which he received on August 30, 2017, and then moved to amend the complaint to add Quest and its cytotechnologists listed on the 2012 report as defendants.

In his written decision denying reconsideration, the judge concluded that plaintiff failed to offer any evidence to rebut his earlier conclusion that plaintiff had an attorney-client relationship with KMH&L. The judge also determined that plaintiff failed to rebut his earlier determination that the records Dr.

Brickner sent to KMH&L on September 22, 2015, included the Quest 2012 report. The judge explained:

> Dr. Brickner testified at his deposition that he provided KMH&L with all of [p]laintiff's medical records from 2002 to 2015, and provided a pathway for obtaining records prior to 2002, which were in the possession of his prior practice(s). This testimony is consistent with the letter dated September 22, 2015, sent by Dr. Brickner to KMH&L wherein he indicated that he had produced all of [p]laintiff's medical records in his possession, going back to 2002. In fact, this letter was sent in response to a letter dated September 11, 2015 from Dobbs to Dr. Brickner's office, wherein Dobbs indicates that her office received [p]laintiff's records from 2012 through 2015.
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> [(Footnotes omitted).]

The judge said Dobbs "simply appears unable to recall whether her office received the report." The judge never addressed Leone's testimony.

Based on these findings, the judge rejected plaintiff's argument that the SOL did not begin to run until Dr. Kaufman reviewed the 2013 and 2014 LabCorp slides in early 2017. He explained:

> Under Lopez, a cause of action "will be held not to accrue until the injured party discovers, or by an exercise of reasonable diligence and intelligence should have discovered that he may have a basis for an actionable claim." Moreover, under an attorney-client relationship, any knowledge possessed by one's attorney is imputed to them as a matter of law. Based on these combined principles, and through imputation

> of knowledge from KMH&L to [p]laintiff, [p]laintiff should have known that she may have had a basis for an actionable claim against Quest, through reasonable diligence in investigating the 2012 report.
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> [(first quoting Lopez, 62 N.J. at 273; and then citing Oltremarle v. ESR Custom Rugs, Inc., 330 N.J. Super. 310, 319 (App. Div. 2000)).]

Having decided in the negative issues one and two listed in his earlier order, the judge concluded he did not need to reach issue three — whether plaintiff's current counsel acted with due diligence. The judge entered the order denying plaintiff's reconsideration motion and reaffirming dismissal of her complaint with prejudice

II.

As the Court has explained,

> a reconsideration motion is primarily an opportunity to seek to convince the court that either 1) it has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the court either did not consider, or failed to appreciate the significance of probative, competent evidence.
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> [Kornbleuth v. Westover, 241 N.J. 289, 301 (2020) (quoting Guido v. Duane Morris LLP, 202 N.J. 79, 87–88 (2010)).]

An appellate court "will not disturb the trial court's reconsideration decision 'unless it represents a clear abuse of discretion.'" Ibid. (quoting Hous. Auth. of Morristown v. Little, 135 N.J. 274, 283 (1994)).

An abuse of discretion "arises when a decision is 'made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" Flagg v. Essex Cnty. Prosecutor, 171 N.J. 561, 571 (2002) (emphasis added) (quoting Achacoso-Sanchez v. Immigr. & Naturalization Serv., 779 F.2d 1260, 1265 (7th Cir. 1985)). We have also described an abuse of discretion as occurring when "the discretionary act was not premised upon consideration of all relevant factors, was based upon consideration of irrelevant or inappropriate factors, or amounts to a clear error in judgment." Masone v. Levine, 382 N.J. Super. 181, 193 (App. Div. 2005) (emphasis added) (citing Flagg, 171 N.J. at 571).

We traditionally defer to the factual findings made by a judge following a hearing that involved live testimony if those findings are supported by adequate, substantial, credible evidence. Seidman v. Clifton Sav. Bank, SLA, 205 N.J. 150, 169 (2011) (citing Cesare v. Cesare, 154 N.J. 394, 411–12 (1998)). Here, the judge concluded Dr. Brickner's rather vague testimony that his office manager sent all of plaintiff's records from as early as 2002 to KMH&L in

September 2015, and Dobbs' letter acknowledging receipt of plaintiff's records from 2012 to 2015, outweighed the countervailing testimony of Dobbs and Leone. Dobbs unequivocally testified that after two requests for plaintiff's records, she never saw the 2012 Quest report in the documents she received from Dr. Brickner. And Leone testified that the 2012 Quest report was not in the original documents he received from KMH&L via plaintiff and her brother-in-law or in the response to his initial written requests; it was only Dr. Brickner's counsel's production of documents in response to a subpoena that yielded the 2012 Quest report for the first time. As noted, the judge never addressed Leone's testimony.

Against this less than definitive factual record, the judge decided to place the burden on plaintiff to raise a genuine factual dispute by demonstrating that KMH&L did not receive the 2012 Quest report in September 2015. In other words, the judge required plaintiff to prove a negative, a burden that should not be placed on any party. Kvaerner Process, Inc. v. Barham-McBride Joint Venture, 368 N.J. Super. 190, 201 (App. Div. 2004) (citing Carter-Wallace, Inc. v. Admiral Ins. Co., 154 N.J. 312, 330–31 (1998)). If it were up to us, we would certainly differ with the judge's conclusion that the 2012 Quest report was in KMH&L's possession as of September 22, 2015.

But for our purposes, we accept the judge's findings, because whether an amended complaint relates back to an earlier complaint or whether a cause of action is barred by a statute of limitations are questions of law that we review de novo. Repko v. Our Lady of Lourdes Med. Ctr., Inc., 464 N.J. Super. 570, 574 (App. Div. 2020) (citing Mejia v. Quest Diagnostics, Inc., 241 N.J. 360, 370–71 (2020)). Here, even assuming the 2012 report was in the records KMH&L received from Dr. Brickner in September 2015, the judge reached the wrong legal conclusion.

"To prove medical malpractice, ordinarily, 'a plaintiff must present expert testimony establishing (1) the applicable standard of care; (2) a deviation from that standard of care; and (3) that the deviation proximately caused the injury.'" Nicholas v. Mynster, 213 N.J. 463, 478 (2013) (quoting Gardner v. Pawliw, 150 N.J. 359, 375 (1997)). "In the case of a medical malpractice claim, suit must be filed within two years of the accrual date, which generally is the date of the negligent act or omission." Szczuvelek v. Harborside Healthcare Woods Edge, 182 N.J. 275, 281(2005) (citing Martinez v. Cooper Hosp.-Univ. Med. Ctr., 163 N.J. 45, 52 (2000)). The discovery rule was adopted, however, "[t]o avoid the harsh effects of a mechanical application of [the] statute of limitations." Ibid. (citing Martinez, 163 N.J. at 52).

"At the heart of every discovery rule case is the issue of 'whether the facts presented would alert a reasonable person exercising ordinary diligence that he or she was injured due to the fault of another.'" Kendall v. Hoffman-La Roche, Inc., 209 N.J. 173, 191 (2012) (alteration in original) (quoting Hardwicke v. Am. Boychoir Sch., 188 N.J. 69, 110 (2006) (Rivera-Soto, J., concurring in part and dissenting in part)). "In many cases, knowledge of fault is acquired simultaneously with knowledge of injury." Martinez, 163 N.J. at 53. But "where the relationship between [a] plaintiff's injury and [a] defendant's fault is not self-evident, it must be shown that a reasonable person, in [the] plaintiff's circumstances, would have been aware of such fault in order to bar [the plaintiff] from invoking the discovery rule." Kendall, 209 N.J. at 192 (citing Alfone v. Sarno, 139 N.J. Super. 518, 523–24 (App. Div. 1976)).

As the Court explained in Martinez, the discovery rule encompasses two types of plaintiffs: (1) "those who do not know that they have been injured"; and (2) "those who know they have suffered an injury but do not know that it is attributable to the fault of another." 163 N.J. at 53. "A sub-category of the 'knowledge of fault' cases is that in which a plaintiff knows she has been injured and knows the injury was the fault of another, but does not know that a third party was also responsible for her plight." Id. at 54 (citing Savage v. Old Bridge-

Sayreville Med. Grp., PA, 134 N.J. 241, 243 (1993)); see also Guichardo v. Rubinfeld, 177 N.J. 45, 52 (2003) ("[W]hen th[e] plaintiff reasonably remains unaware that an additional third party also may be at fault, 'the accrual clock does not begin ticking against the third party until the plaintiff has evidence that reveals [the third party's] possible complicity.'" (alterations in original) (quoting Caravaggio v. D'Agostini, 166 N.J. 237, 249–50 (2001)).

Here, the judge never determined when plaintiff's claims against Quest had accrued. Certainly, if he concluded that plaintiff was on notice of her claim against Quest in September 2015, then she was also on notice of her claim against LabCorp at the same time, because its 2013 and 2014 reports were undoubtedly in the materials Dr. Brickner furnished early on and purportedly in the documents he furnished by September 2015.

But this reveals the fault with the judge's analysis. All three reports allegedly misread the slides that accompanied them, i.e., they all were negative for the presence of cancerous lesions or cells. Simple application of the discovery rule leads ineluctably to the conclusion that plaintiff's cause of action had not accrued simply upon receipt of any of the three reports. Nor did it accrue upon Dr. Brickner's March 2015 diagnosis of plaintiff's stage four cervical

cancer, because that alone did not implicate the potential culpability of either LabCorp or Quest.

In Guichardo, the plaintiff, who was rendered a paraplegic, obtained an expert evaluation which concluded that the defendant doctor, who had treated plaintiff's pain with thoracic epidural catheterizations during a September 1992 hospital stay, was negligent in inserting the catheter. 177 N.J. at 47–49. Approximately one year after filing her August 1994 complaint and after consulting two additional experts, plaintiff learned, for the first time, from another expert that a second doctor, who had also seen plaintiff in September 1992, had negligently delayed one month before diagnosing an epidural abscess, which was a contributing factor to her condition. Id. at 48–49. The Court stated that the "plaintiff reasonably relied on earlier expert advice indicating an absence of fault on the part of a particular defendant." Id. at 55. Consequently, it allowed the plaintiff to implead the doctor. Ibid. The Court explained:

> To start the statute of limitations running in a case involving "complex medical causation," in which "it is not at all self-evident that the cause of injury was 'the fault of . . . a third party,'" . . . "more is required than mere speculation or an uninformed guess 'without some reasonable medical support' that there was a causal connection" between the plaintiff's condition and the third party's conduct.

> [Id. at 51 (quoting Mancuso v. Neckles by Neckles, 163 N.J. 26, 34 (2000)).]

Quest argues Guichardo is distinguishable because the plaintiff initially relied on an expert who found no fault with the late-added defendant, and it was only when the plaintiff obtained a second expert that she became aware of a potential claim against a third party. Quest says that here plaintiff knew in 2015 that Quest had analyzed her 2012 slides and therefore she had a duty to diligently investigate all potentially responsible parties within the two-year SOL.

The argument misses the critical point of Guichardo's holding. Without an expert's review, an objectively reasonable plaintiff would not have known that the cytotechnologists were negligent in their interpretation of the 2012, 2013 or 2014 slides, and that all three negative lab reports reflected that negligence. This case involves issues of complex medical causation. It is not just about the misdiagnosis of plaintiff's specimen slides, but rather about the effect of any delay caused by the negligent interpretation of those slides on the progress of plaintiff's cervical cancer. Regardless of which lab conducted the analysis of plaintiff's 2012 sample slides, it was not until January 2017, when Dr. Kaufman reviewed plaintiff's 2013 and 2014 slides, that plaintiff's cause of action accrued, and only Dr. Kaufman's review of those slides implicated the

potential for the earlier 2012 slides having been misread. Objectively, only then was Quest a potentially responsible party.

The judge's denial of plaintiff's reconsideration motion was premised on legal error, and, therefore, the usual deferential standard of review we apply to the motion court's decision on such motions is unwarranted. We reverse the order denying plaintiff's reconsideration motion. As a result, we also reverse the earlier order granting Quest summary judgment based on expiration of the SOL. The matter is remanded to the trial court for further proceedings.

Reversed and remanded. We do not retain jurisdiction.