

**APPENDIX A
SUPERIOR COURT OF FULTON COUNTY
DISMISSAL ORDER (MARCH 12, 2025)**

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**SHEILA ALKAMEL,
Plaintiff,**

v. CIVIL ACTION FILE NO. 24CV016250

**PIEDMONT HOSPITAL INC., DR. SETH WALKER, DR. MORTON, DR. JOHN
HEISLER,
Defendants.**

DISMISSAL ORDER

The above matter comes before the Court on Defendants' Motion to Dismiss and Plaintiff's Motion for Extension of Time.

In any action for damages alleging professional malpractice against a licensed professional or licensed health care facility, a plaintiff is required to file an affidavit of an expert competent to testify. The affidavit must set forth specifically at least one negligent act or omission claimed to exist and the factual basis for each such claim. O.C.G.A. § 9-11-9.1(a).

Plaintiff does not dispute that this is a professional malpractice action and that an expert affidavit was required to be filed at the time of pleading. A review of the record shows that the Complaint was filed without the contemporaneous filing of an expert affidavit.

Plaintiff, citing O.C.G.A. § 9-11-6, requests an extension of 45 to 60 days to file an amended complaint to obtain the required expert affidavit, potentially retain an attorney, and serve parties. However, except under circumstances not presented in this case, a plaintiff cannot cure her failure to file an expert affidavit by amendment.

O.C.G.A. § 9-11-9.1(b) provides for a 45-day grace period in certain situations, which must be shown by an attorney affidavit. *Peck v. Bishop*, 294 Ga. App. 132 (2008).

In sum, an expert affidavit was required to be filed with the Complaint, and no extension to file an expert affidavit is permitted under the circumstances presented here. Therefore, Defendants' Motion to Dismiss is GRANTED, and this case is dismissed with prejudice.

SO ORDERED this _____ day of _____, 2025.

RACHELLE L. CARNESALE, JUDGE

APPENDIX B

ORDER DENYING MOTION TO SET ASIDE (MARCH 21, 2025)

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

SHEILA ALKAMEL,
Plaintiff,

v. CIVIL ACTION FILE NO. 24CV016250

PIEDMONT HOSPITAL INC., DR. SETH WALKER, DR. MORTON, DR. JOHN
HEISLER,
Defendants.

ORDER DENYING MOTION TO SET ASIDE

The above-captioned matter is before the Court on Plaintiff's Motion to Set Aside Judgment. A review of the record shows the following:

Plaintiff, who represents herself, filed this professional malpractice action without an expert affidavit, although she acknowledged that an affidavit was required. The Court dismissed the case based on Plaintiff's failure to comply with O.C.G.A. § 9-11-9.1. Plaintiff maintains that she should have been entitled to a grace period or extension to file the mandatory affidavit.

A motion to set aside may be brought to set aside a judgment based upon lack of personal jurisdiction; fraud, accident, or mistake or the acts of the adverse party unmixed with the negligence or default of the movant; or a nonamendable defect which appears upon the face of the record or pleadings. O.C.G.A. § 9-11-60. The Motion alleges a nonamendable defect – the Court's failure to grant Plaintiff an extension to file an expert affidavit.

Typically, the contemporaneous affidavit filing requirement cannot be cured by obtaining an extension after the filing of a case. However, O.C.G.A. § 9-11-9.1(b) includes one safe harbor provision which can temporarily excuse the lack of a contemporaneous affidavit filing. But that subsection requires an attorney affidavit and, therefore, does not apply to this case. *Peck v. Bishop*, 294 Ga. App. 132 (2008).

There being no evidence of a nonamendable defect or other good cause to set aside the dismissal, Plaintiff's Motion to Set Aside Judgment is DENIED.

SO ORDERED this _____ day of _____, 2025.

RACHELLE L. CARNESALE, JUDGE

COURT OF APPEALS DECISION (JUNE 20, 2025)

COURT OF APPEALS OF THE STATE OF GEORGIA

A25A1901. SHEILA ALKAMEL v. PIEDMONT HOSPITAL, INC. et al.

Sheila Alkamel, proceeding pro se, filed this medical malpractice and wrongful death action against Piedmont Hospital, Inc., and three healthcare providers. The defendants moved to dismiss the complaint because, among other reasons, it did not include an expert affidavit as required by O.C.G.A. § 9-11-9.1(a). The trial court granted the motion to dismiss on March 12, 2025. Alkamel filed a motion to set aside the dismissal under O.C.G.A. § 9-11-60, which the trial court denied on March 21, 2025. Alkamel filed this direct appeal on April 21, 2025. We, however, lack jurisdiction.

To the extent Alkamel seeks to appeal the order denying the motion to set aside, “the denial of a motion to set aside a final judgment under O.C.G.A. § 9-11-60 is not directly appealable and instead requires the filing of an application for discretionary appeal under O.C.G.A. § 5-6-35 (b).” *Jim Ellis Atlanta, Inc. v. Adamson*, 283 Ga. App. 116 (2006). “Compliance with the discretionary appeals procedure is jurisdictional.” *Smoak v. Dept. of Human Resources*, 221 Ga. App. 257 (1996).

To the extent she seeks to appeal the March 12 dismissal order, the appeal is untimely. A notice of appeal must be filed within 30 days after entry of the appealable order.

Accordingly, this Court does not have jurisdiction to consider this appeal, which is hereby DISMISSED.

APPENDIX D

REMITTITUR (FEBRUARY 6, 2026)

COURT OF APPEALS OF GEORGIA

Case No. A25A1901

Upon consideration of this case, this Court rendered the following decision:

Appeal dismissed.

Costs paid in the Court of Appeals: \$300

It is ordered that the judgment of the Court of Appeals be and the same is hereby made the judgment of this court.

APPENDIX E

SUPREME COURT OF GEORGIA DENIAL (JANUARY 21, 2026)

SUPREME COURT OF GEORGIA

Case No. S25C1499

SHEILA ALKAMEL v. PIEDMONT HOSPITAL, INC. et al.

Judgment: Certiorari – Writ denied

All the Justices concur, except Land, J., disqualified.

Date: January 21, 2026

Court of Appeals of the State of Georgia

ATLANTA, June 20, 2025

The Court of Appeals hereby passes the following order:

A25A1901. SHEILA ALKAMEL v. PIEDMONT HOSPITAL, INC. et al.

Sheila Alkamel, proceeding pro se, filed this medical malpractice and wrongful death action against Piedmont Hospital, Inc., and three healthcare providers. The defendants moved to dismiss the complaint because, among other reasons, it did not include an expert affidavit as required by OCGA § 9-11-9.1 (a). The trial court granted the motion to dismiss on March 12, 2025. Alkamel filed a motion to set aside the dismissal under OCGA § 9-11-60, which the trial court denied on March 21, 2025. Alkamel filed this direct appeal on April 21, 2025. We, however, lack jurisdiction.

To the extent Alkamel seeks to appeal the order denying the motion to set aside, “the denial of a motion to set aside a final judgment under OCGA § 9-11-60 is not directly appealable and instead requires the filing of an application for discretionary appeal under OCGA § 5-6-35 (b).” *Jim Ellis Atlanta, Inc. v. Adamson*, 283 Ga. App. 116, 116 (640 SE2d 688) (2006); see OCGA § 5-6-35 (a) (8), (b). “Compliance with the discretionary appeals procedure is jurisdictional.” *Smoak v. Dept. of Human Resources*, 221 Ga. App. 257, 257 (471 SE2d 60) (1996).

To the extent she seeks to appeal the March 12 dismissal order, the appeal is untimely. A notice of appeal must be filed within 30 days after entry of the appealable order. OCGA § 5-6-38 (a). The proper and timely filing of the notice of appeal is an absolute requirement to confer appellate jurisdiction upon this Court. See *Harned v. Piedmont Healthcare Foundation*, 356 Ga. App. 870, 872 (849 SE2d 726) (2020). In this case, Alkamel filed her notice of appeal on April 21, which was 40 days after entry of the dismissal order.

Finally, to the extent the motion to set aside could be considered a motion for reconsideration, the motion did not extend the time to appeal from the underlying order, and the order resolving it is not subject to direct appeal. See *Bell v. Cohran*, 244 Ga. App. 510, 510 (536 SE2d 187) (2000) (“a motion for reconsideration does not toll the time for filing a direct appeal”).

Accordingly, this Court does not have jurisdiction to consider this appeal, which is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/20/2025

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Christina Bailey Smith

, Clerk.