SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

SARAH RAMEY	:	
	:	Case Number: 2019 CA 5730 M
v.	:	
	:	Judge: Shana Frost Matini
FOXHALL UROLOGY, CHTD., LLC, *et al.*	:	

ORDER

This matter comes before the Court upon consideration of the Motion for Summary Judgment ("Motion"), filed by Defendants on January 25, 2021. On February 19, 2021, Plaintiff filed her Opposition to Defendants' Motion for Summary Judgment ("Opposition"), and Defendants' Reply in Support of Motion for Summary Judgment ("Reply") was filed on March 5, 2021. The Court has reviewed the filings and relevant law. For the reasons contained herein, Defendants' Motion is denied.

Factual and Procedural Background[1]

This matter was initiated by Sarah Ramey ("Ms. Ramey") on August 30, 2019, alleging damages resulting from an alleged negligent performance of a urethral dilation ("2003 dilation") performed by Defendant Edward Dunne, M.D.[2] ("Dr. Dunne") on January 6, 2003. *See* Compl. ¶ 1; SUMF ¶ 1. During the procedure, Ms. Ramey experienced intense pain with significant bleeding. *See* Compl. ¶ 11; SUMF ¶ 2. The following day, Ms. Ramey was admitted to Sibley Memorial Hospital ("Sibley") with a high fever, chills, generalized pain, and malaise. *See* Compl. ¶ 12; SUMF ¶ 2. Ms. Ramey was diagnosed with urosepsis, a condition involving the

[1] This background section is formulated from Defendants' Statement of Undisputed Material Facts ("SUMF") and Plaintiff's Complaint ("Complaint"). Any material fact disputed by Plaintiff in her Response to Defendants' SUMF (Response to SUMF) is not included. As it must, Court views these facts in favor of the nonmoving party. *See Hunt v. District of Columbia*, 66 A.3d 987, 990 (D.C. 2013) (citation omitted).

[2] Dr. Dunne was a urologist with Defendant Foxhall Urology, CHTD, LLC ("Foxhall") at the time of the 2003 dilation.

spread of infection from the urinary tract into the blood stream. *See* Compl. ¶ 13; SUMF ¶ 2. Since the January 6, 2003 procedure, Ms. Ramey has continually suffered extreme fatigue, chronic pain, aching in the muscles and joints, severe pelvic and vaginal pain, debilitating bowel dysfunction, and menstrual issues, as well as cognitive and psychological symptoms.[3] *See* Compl. ¶ 16; SUMF ¶ 3.

For the next thirteen years, Ms. Ramey saw numerous specialists. *See generally* Compl. ¶ 17; SUMF ¶¶ 6, 9-11, 13-15, 17, 19, 22-28, 30-31, 39-41. Over the years, Ms. Ramey saw gastroenterologist Dr. Louis Korman; gynecologist Dr. Cheryl B. Iglesia; Dr. Joseph D. Croft, Jr.; registered dietician Melanie Sherman; gastroenterologist Dr. Kenneth Miller; genealogical surgeon Dr. Jeffery Lin; gastroenterologist Dr. Thomas Loughney; urologist Dr. Michael H. Phillips; gynecologist Dr. Pearl W. Yee; Dr. Michael Kapler; pain management specialist Dr. Elliot S. Krames; colorectal surgeon Dr. Michelle L. Li; Dr. Fanny Bangoura; Dr. Richard Marvel; Dr. Richard N. Hess; Dr. Robynne Chuktan; Dr. Jeffrey M. Aron; Dr. Amy E. Foxx-Orenstein; Dr. Mark Abbruzzese; Dr. Gary Kaplan; Dr. Arianna Sholes-Douglas; and Dr. Lee Dellon.[4] *See* SUMF ¶¶ 6, 9-11, 13-15, 17, 19, 22-28, 30-31, 39-41; *see generally* Response to SUMF (indicating that Ms. Ramey does not dispute the records from these providers cited by Defendants).

Ms. Ramey's own accounts in her personal journal and to numerous of these medical providers referred to the 2003 urethral dilation procedure. In a journal entry authored sometime between February and December of 2008, Ms. Ramey wrote, "[t]he central problem is no

[3] In her Response to SUMF, Ms. Ramey states that "…it is not technically accurate to state that Ramey has experienced each of these symptoms in a continuous unbroken fashion during that period. (Citation omitted). Rather, Ramey has experienced each of those symptoms at various times, at varying levels of intensity, throughout the last 18 years. (Citation omitted)." Response to SUMF at 2-3. The Court notes that Defendants' use of the word "continually" duplicates the language used in paragraph sixteen of Ms. Ramey's Complaint.

[4] The specialties of these medical providers are included in this background section when provided in the SUMF.

mystery. My urologist ripped my urethra with a large metal instrument against my will…." SUMF ¶ 18.

In a medical history Ms. Ramey prepared on November 3, 2009, she describes the 2003 dilation as, "…an *excruciatingly* painful and traumatic procedure, by far the most horrifying memory of my life…." SUMF ¶ 20; Mot. Ex. 15 (emphasis in original). Similarly, in a self-written medical history in preparation for a March 9, 2016 appointment with Dr. Sholes-Douglas, Ms. Ramey wrote:

> The long and short of it is: a urological surgical accident in 2003 caused me to go into septic shock, as well as initiating severe, ongoing vaginal pain and bowel paralysis. They don't actually know what exactly went wrong. Some doctors believe he damaged a neve or nerve plexus, others thing [sic] he damaged the lymph system, and others thing [sic] maybe he created a small fistula. In any case, something bad happened and it has only gotten worse of the years…The operating theory of the case is that the damage from the surgery and the ongoing pain and stress, in conjunction with the PICC line and month of intravenous antibiotics I received for sepsis is what caused/is causing the HPA axis dysregulation and the dysbiosis/leaky gut. The thought is that these are the main things causing inflammation in the central nervous system, and all the problems that go with it.

SUMF ¶ 41; Mot. Ex. 37.[5] There are also various reports written by different doctors that refer to Ms. Ramey describing the 2003 dilation as a procedure that "went wrong," *see* SUMF ¶ 23, Mot. Ex. 18; as "the beginning of her GI symptoms," *see* SUMF ¶ 24, Mot. Ex. 19; and as causing "concerns regarding chronic infection from trauma," *see* SUMF ¶ 19, Mot. Ex. 14.

In addition to Ms. Ramey's own descriptions of her medical condition and communications with medical providers, her parents, Dr. Ylene A. Larsen ("Dr. Larsen") and Dr. James Ramey ("Dr. Ramey"), also served as Ms. Ramey's medical advocates. *See* SUMF ¶ 12,

[5] *See also* SUMF ¶ 26; Mot. Ex. 21 (describing "attempted urethral dilation, slipped + punctured left vaginal wall + left pelvic plexus" and listing cause of pain as "original left pelvic plexus damage left untreated" in medical history prepared for a July 25, 2014 appointment with Dr. Marvel); SUMF ¶ 33. Mot. Ex. 29 (stating that, "[f]ollowing a botched urethral dilation that resulted in septic shock in 2003, I rapidly developed a complex, extremely debilitating mysterious illness" in May 5, 2014 email to Dr. June Stevens); and SUMF ¶ 34; Mot. Ex. 30 (stating, "[t]he urethral dilation and repeated manipulations have been very difficult" and describing pain "at the site of injury in 2003" in May 5, 2014 medical history questionnaire).

n. 3; Mot. Ex. 5. In their role as Ms. Ramey's medical advocates, Dr. Larsen and Dr. Ramey provided medical histories, inquiries, observations, and summaries of previous medical appointments to some of Ms. Ramey's medical providers, each other, and to Ms. Ramey herself.[6]

In 2016, Ms. Ramey contacted Dr. Marvel, a urogynecologist who had previously treated Ms. Ramey for her chronic pain. Compl. ¶ 18. On August 21, 2016, Dr. Marvel responded via email and suggested "for the first time" that it was possible her symptoms were caused by a neuroma, which is a disorganized growth of nerve cells at the site of a nerve injury, frequently resulting from trauma to a nerve during a surgical procedure. Compl. ¶¶ 18-19; SUMF ¶ 4. On July 6, 2017, Ms. Ramey had a transvaginal sonogram that revealed scarring or neuromas around the perineal and pudendal nerves. *See* Compl. ¶ 21; SUMF ¶ 5. On October 5, 2017, Dr. Dellon, a peripheral nerve surgeon, performed a surgery to relieve Ms. Ramey's nerve pain. *See* Compl. ¶ 22; SUMF ¶ 6. Dr. Dellon concluded that the scarring and neuromas likely resulted from the 2003 dilation procedure, which had damaged her labia, vestibule, and the surrounding nerves. *See* Compl. ¶ 23, SUMF ¶ 6.

Based on the foregoing, Ms. Ramey alleges that she did not discover the potential cause of her injuries until August 31, 2016, and that she did not discover the actual cause of her injuries and Dr. Dunne's negligence until July 6, 2017. *See* Compl. ¶ 6. Accordingly, Ms. Ramey asserts that the filing of her Complaint on August 30, 2019 was timely filed pursuant to D.C. Code § 12-301 and the Discovery of Harm rule. *See* Compl. ¶ 5.

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[6] *See generally* SUMF ¶ 12; Mot. Ex. 4 (March 24, 2003 medical history written by Dr. Larsen); SUMF ¶ 16, Mot. Ex. 10 (letter from Dr. Larsen to Dr. Ramey and Dr. Lucy Chang); SUMF ¶ 21; Mot. Ex. 16 (email from Dr. Larsen to Ramey with information/observations to share with medical providers); SUMF ¶ 28; Mot. Ex. 23 (email from Dr. Larsen to Dr. Chuktan and Dr. Loughney providing medical history); SUMF ¶ 29, Mot. Ex. 24 (letter from Dr. Ramey to Dr. Chuktan requesting that Dr. Chuktan continue to help Ms. Ramey); SUMF ¶ 32, Mot. Ex. 28 (email from Dr. Ramey to Dr. Chuktan informing of latest diagnosis and inquiring about specialists); SUMF ¶ 36, Mot. Ex. 32 (email from Dr. Ramey to Dr. Chuktan informing of Dr. Iglesia's opinion); and SUMF ¶ 38, Mot. Ex. 34 (Dr. Larsen May 22, 2014 case summary).

Standard of Review

Rule 56(a) provides that "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." D.C. Super. Ct. Civ. R. 56(a). To prevail on a motion for summary judgment, the moving party must establish that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. *Hunt*, 66 A.3d at 990 (citing *Grant v. May Dep't Stores Co.*, 786 A.2d 580, 583 (D.C. 2001)); D.C. Super. Ct. Civ. R. 56(c)). A material fact is "one which, under the applicable substantive law, is relevant and may affect the outcome of the case." *Rajabi v. Potomac Elec. Power Co.*, 650 A.2d 1319, 1321 (D.C. 1994).

The moving party has the initial burden of proving that there is no genuine issue of material fact in dispute; after satisfying that burden, the burden then shifts to the non-moving party to establish that such an issue exists. *Bradshaw v. District of Columbia*, 43 A.3d 318, 323 (D.C. 2012) (quoting *Beard v. Goodyear Tire & Rubber Co.*, 587 A.2d 195, 198 (D.C. 1991)). The non-moving party must set forth "significant probative evidence tending to support the complaint," consisting of specific facts showing there is a genuine issue for trial. *Barrett v. Covington & Burling LLP*, 979 A.2d 1239, 1245 (D.C. 2009) (internal citations omitted); *see also* D.C. Super. Ct. Civ. R. 56(e) ("Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.").

In considering the merits of the moving party's request, the Court reviews the record in the light most favorable to the non-moving party, "drawing all reasonable inferences from the evidence in the non-moving party's favor." *See Medhin v. Hailu*, 26 A.3d 307, 310 (D.C. 2011).

The Court may not "resolve issues of fact or weigh evidence at the summary judgment stage." *Barrett*, 979 A.2d at 1244 (internal citations omitted).

Analysis

Defendants move for summary judgment in their favor on all counts, arguing that Ms. Ramey's claim, "…is fundamentally time-barred by the applicable statute of limitations and thus procedurally defective in a fatal an incurable way." Mot. at 1. Defendants therefore assert that they are entitled to summary judgment as a matter of law. *Id*. Defendants state that Ms. Ramey's claim began to accrue no later than 2008. Mot. Mem. P. & A. at 25. In support of this argument, Defendants argue that both Ms. Ramey and her medical providers consistently dated the onset of her recognized issues and symptoms to the year of the 2003 dilation. *See* Mot. Mem. P. & A. at 26. Defendants assert that the use of the 2003 dilation as the beginning of her symptoms shows that Ms. Ramey knew, or should have known, that the 2003 dilation was the "cause in fact" of her alleged injuries. *See generally* Mot. Mem. P. & A. at 27-29. Furthermore, Defendants argue that there was "some evidence of wrong doing" considering that Ms. Ramey and her medical providers described the 2003 dilation as causing "trauma" or "injury" thereby conveying a belief that, "some kind of negligent action, wrongdoing, or malpractice occurred to bring about such an adverse result." *See* Mot. Mem. P. & A. at 31.

In opposition, Ms. Ramey argues that because a reasonable juror could conclude that her claim accrued no sooner than August 31, 2016, Defendants are not entitled to summary judgment. Opp. at 11. Ms. Ramey asserts that the discovery rule considers the overall mix of information provided to a patient, and that the overall mix of information provided to her left her reasonably baffled, "just like the specialists that she visited over fourteen years." *See* Opp. at 13. Ms. Ramey states that she lacked the necessary medical advice to support a linkage between her

injury and Defendants wrong doing until July of 2017. *See generally* Opp. at 17-18. Therefore, Ms. Ramey argues that the discovery rule allows her to present her case to a jury.[7]

According to D.C. Code § 12-301, the limitation of time for bringing a claim such as Ms. Ramey's is three years. *See* D.C. Code § 12-301(8). In medical malpractice cases, the "discovery rule" applies to determine the accrual of the cause of action. The District of Columbia Court of Appeals ("Court of Appeals") first applied the discovery rule in *Burns v. Bell*, 409 A.2d 614 (D.C. 1979), stating, "…in all medical malpractice cases, the cause of action accrues when the plaintiff knows or through the exercise of due diligence should have known of the injury." *Burns*, 409 A.2d at 617. In *Bussineau v. President & Directors of College*, 518 A.2d 423 (D.C. 1986), the Court of Appeals expanded on *Burns* and held that, "…for a cause of action to accrue where the discovery rule is applicable, one must know or by the exercise of reasonable diligence should know (1) of the injury, (2) its cause in fact, and (3) of some evidence of wrongdoing." *Bussineau*, 518 A.2d at 435.

The Court of Appeals has explained the concept of "some evidence of wrongdoing" in detail. In *Bussineau*, the Court of Appeals examined other states that required some evidence of wrongdoing and stated:

> These cases point out that statutes of limitations are based on the proposition that persons who sleep on their right to commence a cause of action may lose that right after a specified period of time. Thus, a statute of limitations can effectively deprive a person of the opportunity to pursue what may be an otherwise valid claim. In the area of medical malpractice, an individual, more often than not, lacks the requisite expertise to know whether the ill effects of a particular medical treatment resulted from someone's wrongdoing, rather than merely an inevitable or unforeseeable risk of treatment. Because the discovery rule is designed to prevent the accrual of a cause of action before an individual can reasonably be expected to discover that he has a basis for legal redress, the statute should not

[7] Ms. Ramey also raises: (1) an argument that the length of time in which to bring suit is a question left to the D.C. Council, *see generally* Opp. at 25; and (2) the doctrine of equitable estoppel, *see generally* Opp. at 26. Because the Court finds that the discovery rule requires the Court to deny Defendants' Motion, it declines to address Ms. Ramey's alternative arguments.

> commence until a claimant knows, or through the exercise of due diligence, should know, that his injury resulted from someone's wrongdoing.

Bussineau, 518 A.2d at 430. The Court of Appeals later clarified that "[t]he discovery rule does not, however permit a plaintiff who has information regarding a defendant's negligence, and who knows she has been significantly injured, to defer institution of suit and wait and see whether additional injuries come to light." *Colbert v. Georgetown Univ.*, 641 A.2d 469, 473 (D.C. 1994). "...[T]he discovery rule requires only that a plaintiff have *some evidence* of both the injury and the defendant's wrongdoing, as well as knowledge of the cause in fact for a negligence claim to accrue." *Morton v. National Med. Enters.*, 725 A.2d 462, 469 (D.C. 1999) (internal citations omitted) (emphasis in original).

In *Brin v. S.E.W. Investors*, 902 A.2d 784 (D.C. 2006), the Court of Appeals acknowledged that "…the standard of some evidence of wrongdoing is far from a precise one." *Brin*, 902 A.2d at 793 (internal quotations and citation omitted). The Court of Appeals noted "causation between a manifest illness and wrongdoing of which there is some evidence" will "almost invariably be a subject beyond the ken of laypersons," stating, "[p]atients who seek medical care are not responsible for diagnosing their own condition, but must rely on the physician's expertise to determine the cause of the problem and provide treatment." *Id.* (quotations and citations omitted). The Court of Appeals further stated, "[s]ince patients must rely on their doctors, a person cannot reasonably be expected or required to act until that person has some medical advice to support a linkage between a known injury and wrongdoing of which the person has some evidence." *Id.*

While *Brin* did not require the medical advice to show a linkage to a "reasonable medical certainty," it did state, "…with some medical opinion that the perceived evidence of wrongdoing is a plausible cause of the illness, the plaintiff can be expected to promptly seek additional

medical and legal advice to illuminate the causal issue." *Brin*, 902 A.2d at 794. Expanding upon the meaning of "plausible cause," the Court of Appeals stated, "…the plaintiff will have received medical advice that specifically identifies the wrongdoing of the defendant to be included among the reasonably possible causes of her maladies…." *Id*.

Finally, in applying the discovery rule to medical malpractice cases, the Court of Appeals has stated, "[t]o require a patient to scrutinize to a fine degree the advice given by a treating physician, at the risk of losing his right to legal redress seems unwise. Thus the determination of when appellant should have reasonably discovered her injury under the circumstances is…a question of fact…." *Burns*, 409 A.2d at 617. "Otherwise put, unless the evidence regarding the commencement of the running of the statute of limitations is so clear that the court can rule on the issue as a matter of law, the jury should decide the issue on appropriate instructions." *Brin*, 902 A.2d at 795 (quotations and citation omitted).

The Court begins its analysis by addressing Ms. Ramey's "due diligence" in pursuing the cause of her claim. In *Brin*, the Court of Appeals charged the plaintiff with "inquiry notice:" "…that is, knowledge that he does not actually have but which he would have discovered had he exercised reasonable diligence in acting on the information available to him." *Brin*, 902 A.2d at 794 (citation omitted). In explaining how a plaintiff exercises due diligence, the Court of Appeals stated:

> …two distinct questions may be involved. The first is what facts are sufficient to put a plaintiff on "inquiry notice;" that is, what facts are sufficient to trigger the obligation to make a reasonable investigation into the possible existence of a cause of action. The second is what must be discoverable by such an investigation; that is, what "knowledge" must a plaintiff have, whether actual or discoverable upon reasonable inquiry, about the existence of a cause of action before the statute of limitations begins to run.

Id.

Here, the Court finds that a reasonable juror could find that Ms. Ramey exercised due diligence in pursing her claim. Following the 2003 dilation, Ms. Ramey was hospitalized for sepsis, began experiencing fatigue, chronic pain, aching in the muscles and joints, pelvic and vaginal pain, bowel dysfunction, and menstrual issues, as well as cognitive and psychological issues. Compl. ¶¶ 13, 16. These symptoms put Ms. Ramey on notice that she had an obligation to make a reasonable investigation into the possible cause of action. Ms. Ramey began an investigation into the cause of her symptoms, as outlined *supra*, visiting over twenty medical providers over fourteen years in an effort to diagnosis the cause of her symptoms. *See* SUMF ¶¶ 6, 9-11, 13-15, 17, 19, 22-28, 30-31, 39-41. For reasons discussed *infra*, the Court finds that a reasonable juror could find that despite her efforts, Ms. Ramey did not receive the requisite knowledge about her cause of action until 2017.

In *Bussineau*, the Court of Appeals established a three-prong test that the Court applies here: "for a cause of action to accrue where the discovery rule is applicable, one must know or by the exercise of reasonable diligence should know (1) of the injury, (2) its cause in fact, and (3) of some evidence of wrongdoing." 518 A.2d at 435. While the Court finds that Ms. Ramey knew of her injury prior to 2017, it also finds that there are genuine issues of material fact as to when Ms. Ramey discovered the causal link between the injury and her symptoms that are for a jury to decide.

First, Ms. Ramey's own statements indicate that she knew an injury attributed to the 2003 dilation occurred. Ms. Ramey experienced intense pain and significant bleeding during the procedure itself.[8] *See* Compl. ¶ 11. In a 2008 journal entry, Ms. Ramey wrote, "[t]he central

[8] However, Ms. Ramey asserts—based on Dr. Dunne's statements to her during the procedure—she believed she was overreacting to ordinary bleeding and pain that accompanied what Dr. Dunne had described as a normal procedure. Opp., Declaration of Sarah Ramey. This goes to "some evidence of wrongdoing" as described in *Bussineau*. "In the area of medical malpractice, an individual, more than often than not, lacks the requisite

problem is no mystery. My urologist ripped my urethra with a large metal instrument against my will....” Mot. Ex. 13. In a 2009 medical history prepared by Ms. Ramey, she described the 2003 dilation as an “*excruciatingly* painful and traumatic procedure, by far the most horrifying memory of my life….” Mot. Ex. 15. In a July 2017 medical report, Dr. Kapler stated that Ms. Ramey is reported as having described the 2003 dilation as a procedure that “went wrong.” Mot. Ex. 18. In a May 5, 2014 email to Dr. Stevens, Ms. Ramey described the procedure as “a botched urethral dilation….” Mot. Ex. 29. In a medical history prepared for a July 2014 appointment, Ms. Ramey wrote that her pain was the result of a “surgical mistake” that began in 2003. Mot. Ex. 21. In a March 9, 2016 medical report authored by Dr. Sholes-Douglas, Ms. Ramey’s self-reported history describes different medical providers’ opinions on the complications resulting from the 2003 dilation and states, “[i]n any case, something bad happened, and it has only gotten worse over time.” Mot. Ex. 37.[9]

The Court finds these statements sufficient to demonstrate that Ms. Ramey knew some injury resulted from the 2003 dilation. However, the Court also finds that a genuine issue of fact exists as to whether Ms. Ramey knew the injury was the cause in fact, or actual cause, of her symptoms. Even in describing the 2003 dilation as “painful” or an “injury,” Ms. Ramey also states: “Something clearly went wrong, but the doctor did not admit to a mistake so we can’t know what happened… This seems to indicate there may be a mechanical problem at the root – but we have not been able to identify what it is.” Mot. Ex. 29. In a September 27, 2006 report

knowledge to know whether the ill effects of a particular medical treatment resulted from someone’s wrongdoing, rather than merely an inevitable or unforeseeable risk of treatment.” *Bussineau*, 518 A.2d at 430.

[9] Dr. Larsen has also described the 2003 dilation as “painful,” *see* Mot. Ex. 9, and “the injury,” *see* Mot. Ex. 23. Defendants argued that because Ms. Ramey’s parents were both her medical advocates, as well as qualified medical professionals, their respective observations about her condition should be given “considerable weight” in the analysis. *See* SUMF ¶ 12, n. 3. However, the Court may not “resolve issues of fact or weigh evidence at the summary judgment stage.” *Barrett*, 979 A.2d at 1244 (internal citations omitted). Therefore, the weight to be afforded the statements of Dr. Larsen and Dr. Ramey is an issue for the jury.

authored by Dr. Miller, Ms. Ramey described having "a mystery illness." Mot. Ex. 7. Ms. Ramey also described her case as a "medical mystery for eleven years" in a May 5, 2014 email to Dr. Stevens. Mot. Ex. 29. In addition, Ms. Ramey described her medicine protocol as being "for the mystery-illness aspect of things…." Mot. Ex. 37. Based on these statements, a genuine issue of material fact as to whether Ms. Ramey knew the 2003 dilation was the cause in fact of her symptoms exists, and the issue should be submitted to a jury.

Finally, the Court finds that a genuine issue of material fact exists as to whether Ms. Ramey had "some evidence of wrongdoing." As discussed *supra*, "some evidence of wrongdoing" requires, "some medical opinion that the perceived evidence of wrongdoing is a plausible cause of the illness...." *Brin*, 902 A.2d at 794. Here, the record is replete with Ms. Ramey's medical providers indicating that something other than 2003 dilation was to blame for Ms. Ramey's symptoms or attributing her symptoms to other diagnoses. In a November 3, 2009 medical history authored by Ms. Ramey, she states, "I am now diagnosed with severe pelvic floor dysfunction, severe interstitial cystitis, inflammatory bowel, Candida, Fibromyalgia, leaky gut and possibly some larger auto-immune disease." Mot. Ex. 15.

A March 14, 2003 report authored by Dr. Iglesia states, "[s]he also saw a urologist in Maine who had no idea what was causing her problems." Mot. Ex. 2. A March 19, 2003 report authored by Dr. Croft states, "I wonder if a TEE might not be in order, since SBE certainly account for many of her constitutional symptoms." Mot. Ex. 3. On September 18, 2006, registered dietician Melanie Sherman wrote, "GI problems (constipation) started Jan 03 after bout with chronic UTI and sepsis." Mot. Ex. 6. On September 27, 2006, Dr. Miller wrote, "Though slow-transit constipation and pelvic floor dysfunction are possible, it seems most likely

that an element of the irritable bowel syndrome with constipation exists, as she feels symptomatic even after a laxative cleanout." Mot. Ex. 7.

In a December 31, 2007 report authored by Dr. Lin, he wrote, "I think that she most likely has a chronic pelvic pain syndrome initiated by the severe UTI in 2003 with a component of sympathetically maintained pain and autonomic dysfunction which is producing the pelvic pain and chronic dysfunction." Mot. Ex. 8. In a January 22, 2008 letter from Dr. Loughney to Dr. Larsen, Dr. Loughney wrote, "I would also wonder about either vascular congestion or pelvic congestion as a potential contributor to her symptoms…." Mot. Ex. 9. In an April 21, 2008 report authored by Dr. Phillips, he writes, "[a]t the present time, I am at loss to explain her symptoms." Mot. Ex. 12.

In a July 7, 2010 report authored by Dr. Krames, he writes, "I do believe that we may be of some help to this woman who has a diagnosis of systemic Strongyloides Infection and systemic candidiasis…I do believe that interdisciplinary care is absolutely essential to healing for this woman." Mot. Ex. 18. In a July 21, 2010 report authored by Dr. Li, she writes "I agree that Sarah has findings consistent with both internal hemorrhoids as well as anal fissures." Mot. Ex 19. In a June 19, 2014 report authored by Dr. Abbruzzese, he wrote, "[m]any issues and it is hard to put it all together." Mot. Ex. 35.

In addition, throughout the years. Dr. Larsen attributed a possible cause of Ramey's symptoms to a parasitic infection, a recto-vaginal fistula, or sigmoid volvulus. A March 24, 2003 medical history written by Dr. Larsen states, "I wonder if this is a parasitic infection as Sarah has traveled extensively over the last six years…." Mot. Ex. 4. In a February 14, 2008 letter to Dr. Ramey and Dr. Chang, Dr. Larsen writes, "I recently spent a long time going over Sarah's history with Martin Wolfe as she has had multiple parasitic infections in her extensive world

travels." Mot. Ex. 10. In a December 4, 2009 email to Ms. Ramey providing updates and observations for Ms. Ramey to provide to her medical providers, Dr. Larsen wrote, "…the diagnosis of chronic and severe strongyloides as diagnosed by the +IgG antibody and Sarah's extensive history supporting it is accepted by her parasitologist and gastroenterologist…." Mot. Ex. 16. In an April 29, 2013 report authored by Dr. Bangoura, she writes, "[m]om gives more history of possible recto-vaginal fistula and recurrent left labial abscesses." Mot. Ex. 20. In an August 25, 2013 email to Dr. Chuktan, Dr. Larsen wrote, "I have outlined below the specific dates of clinical and diagnostic details that last week led me to the conclusion that Sarah has been having recurrent episodes of sigmoid volvulus." Mot. Ex. 23. A May 22, 2014 report authored by Dr. Chuktan states, "[m]other thinks problem may be strongyloides or leshmaniasis." Mot. Ex. 33. Finally, in a May 22, 2014 case summary prepared by Dr. Larsen, she writes, "[t]here is concern for GYN visceral leshmaniasis. It has been reported from Costa Rica." Mot. Ex. 34.

In contrast to these numerous possibilities or unknowns described by Dr. Larsen and Ms. Ramey's medical providers, the possibility of pudendal nerve damage only arises in five of Defendants' exhibits. In a September 1, 2013 letter from Dr. Ramey to Dr. Chuktan, he writes, "[o]ne working theory is that the original cystoscopy which resulted in an ICU admission for septic shock resulted in fistula and perhaps damage to the pudendal nerve." Mot. Ex. 24. Shortly thereafter, Dr. Chuktan wrote an email to Dr. Fieischer, in which she wrote, "[s]he has severe colonic inertia (unknown etiology) plus/minus possible pudendal nerve damage after a cystoscopy many years ago." Mot. Ex. 25. In a February 10, 2014 email from Dr. Ramey to Dr. Chuktan, Dr. Ramey informs Dr. Chuktan that the Mayo Clinic diagnosed Ms. Ramey with complex regional pain syndrome "which can rarely occur after trauma to the pelvic area." Mot.

Ex. 28. In a "current symptoms and diagnoses" report authored by Dr. Chuktan on an unknown date, she includes "left pudendal (and possibly hypogastric) nerve entrapment" as one out of nine prospective diagnoses. Mot. Ex. 31. Finally, in a May 21, 2014 email from Dr. Ramey to Dr. Chuktan, he writes, "[s]he has seen Dr. Iglesia who thinks that the 10 year's ago injury from the urethral dilation damaged the pudendal plexus and cause [sic] much scarring and lymphatic obstruction as well as maybe a colon perforation." Mot. Ex. 32.

Here, in light of the numerous diagnoses and speculations from medical providers, the Court cannot find that "the evidence regarding the commencement of the running of the statute of limitations is so clear that the court can rule on the issue as a matter of law…." *Brin*, 902 A.2d at 795 (quotations and citation omitted). While pudendal nerve damage attributed to the 2003 dilation was raised as a *possible* cause of Ms. Ramey's symptoms beginning in 2013, Ms. Ramey was receiving numerous other information and diagnoses during the same time period. Thus, the Court cannot definitively determine that Ms. Ramey was provided knowledge of pudendal nerve damage as a *plausible* cause based on the record before it. Ms. Ramey asserts that she did not know of this until a transvaginal sonogram in 2017.[10] In viewing the facts in the light most favorable to Ms. Ramey, the Court finds genuine issues of material fact as to when Ms. Ramey received evidence of "some wrongdoing" by Dr. Dunne exist. Therefore, this is an issue for the jury to decide.

Conclusion

Accordingly, it is this 20th day of April 2021 hereby:

[10] Defendants' Reply raises the argument that Ms. Ramey had undergone this procedure on multiple occasions prior to 2107. *See* Reply at 14. However, Defendants did not raise this argument in their Motion, nor have they provided reports from the previous transvaginal sonograms.

ORDERED that Defendants' Motion for Summary Judgment. is **DENIED**; and it is further

ORDERED that the parties shall appear for the previously-scheduled status hearing on May 14, 2021 at 10:00 a.m. This hearing will be held by video conference, and the instructions for attending the remote hearing are appended to this Order.

SO ORDERED.

Judge Shana Frost Matini
Superior Court of the District of Columbia

Copies served electronically upon all counsel of record.