



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: RALEIGH HEART CLINIC LITIGATION CIVIL ACTION NO. 18-C-5000

THIS DOCUMENT APPLIES TO ALL CASES

**ORDER DENYING DEFENDANT RALEIGH HEART CLINIC, INC.
AND DR. THAIR BARGHOUTHI'S MOTION TO DISMISS
CROSSCLAIM BY CARDINAL HEALTH 414, LLC**

ON JUNE 26, 2019, Defendant Raleigh Heart Clinic, Inc. and Dr. Thair Barghouthi (“RHC Defendants”) filed a *Motion to Dismiss Crossclaim by Cardinal Health 414, LLC* (Transaction ID 63484825), arguing that Cardinal Health’s crossclaims against RHC Defendants were time-barred by the statute of limitations. On July 10, 2019, Defendant Cardinal Health 414, LLC (“Cardinal Health”) timely filed a *Response in Opposition to Defendants Raleigh Heart Clinic, Inc. and Dr. Thair Barghouthi’s Motion to Dismiss Crossclaim by Cardinal Health 414, LLC* (Transaction ID 63531896), arguing that the statute of limitations applicable to Cardinal Health’s crossclaim for express indemnity has not begun to run because the triggering event (*e.g.*, a loss suffered by Cardinal Health in the form of a settlement or liability payment) had not yet occurred at the time of filing, and that once an action is filed, West Virginia Code § 55-2-21 (2016) tolls the statute of limitations period during the pendency of that civil action as to any crossclaim that may be asserted in that action.

After consideration of RHC Defendants’ Motion and Cardinal Health’s Response thereto, the Court denies the Motion because Cardinal Health’s cross-claim is not time-barred. The Court further finds that the Motion inaccurately conflates the statute of limitations applicable to Plaintiffs’ tort claims against Cardinal Health and RHC Defendants, which began to run upon Plaintiffs’ alleged injuries by Dr. Barghouthi, with the statute of limitations applicable to Cardinal Health’s cross-claim for indemnification, which does not begin to run until Cardinal Health suffers loss on account of RHC Defendants (*e.g.*, makes a settlement or liability payment). For these

reasons as well as others raised in the briefing papers and during oral argument, the Court
THEREFORE **DENIES** RHC Defendants' Motion to Dismiss.

It is so **ORDERED**.

ENTERED: September 12, 2019.

/s/ Jay M. Hoke
Lead Presiding Judge
Raleigh Heart Clinic Litigation