

**No. 31553 – *Joann Jones and Clarence Jones v. Ali Aburahama, M.D.,
Mark Choueriri, M.D., and CAMC***

FILED

July 21, 2004

released at 3:00 p.m.

**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

McGraw, Justice, dissenting:

I am compelled to dissent from the majority opinion in this case because, at once, it rewards the hospital for its dilatory conduct while forcing the Appellant to suffer the ultimate penalty. Appellant repeatedly requested copies of her medical records for the purpose of forwarding them to objective medical experts so that it could be fairly determined whether the defendant hospital, among others, acted negligently in treating her. It took some six months for the hospital to finally comply with the Appellant's initial request. As a result, the hospital subtly (but effectively) appropriated one quarter of the applicable limitations period, leaving Appellant with that much less time to acquire an expert opinion and, ultimately, to file her complaint. Because I disapprove of the hospital's careless conduct and inattentiveness in this regard – the effect of which foreclosed the Appellant from seeking a remedy for her injuries – I respectfully dissent.