

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

JOHN P. BLAZIC DDS INC.,	:	APPEAL NO. C-180293
Plaintiff-Appellee,	:	TRIAL NO. 17CV-24590
vs.	:	<i>JUDGMENT ENTRY.</i>
EMMA BINFORD,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

On October 13, 2017, plaintiff-appellee John Blazic DDS, Inc., filed a complaint in the Small Claims Division of the Hamilton County Municipal Court for money damages resulting from dental services performed on defendant-appellant Emma Binford. There was no dispute that the dental services were rendered. Binford disputed Blazic's accounting, which showed that she owed an outstanding balance in the amount of \$281.11. In a counterclaim, Binford argued that she had already overpaid Blazic and was entitled to a refund.

The case was tried before a magistrate on March 9, 2018, and the magistrate ruled in favor of Blazic on both his claim and Binford's counterclaim. Binford filed objections, which were overruled by the trial court. Binford now appeals, asserting nine assignments of error, which challenge the monetary judgment in favor of Blazic and raise issues with procedure that allegedly occurred at trial.

Binford's appeal raises a manifest-weight-of-the-evidence challenge to the trial court's decision. The standard of review for a manifest-weight challenge in a civil case is the same as that applied to a criminal case. *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 17. In considering a manifest-weight challenge, a reviewing court weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the finder of fact clearly lost its way and created a manifest miscarriage of justice that warrants reversal and a new trial. (Internal quotations omitted.) *Eastley* at ¶ 20. "[E]very reasonable intendment and every reasonable presumption must be made in favor of the judgment and the finding of facts." (Internal quotations omitted.) *Downtime Rebuild, LLC v. Trinity Logistics, Inc.*, 1st Dist. Hamilton No. C-180157, 2019-Ohio-1869, ¶ 12.

In this case, Blazic asserted a breach-of-contract claim against Binford for failing to pay the outstanding balance of her account at his dental practice. "To prevail on such a claim, a claimant must establish the existence of a contract, performance on its part, breach by the other party, and its own damage or loss." *Ward v. Cent. Invest. L.L.C.*, 1st Dist. Hamilton Nos. C-100080 and C-100081, 2010-Ohio-6114, ¶ 12. "For a valid contract to exist, there must be an offer on one side, an acceptance on the other side, and mutual assent between the parties with regard to the consideration for the bargain." *Nunez v. J.L. Sims Co.*, 1st Dist. Hamilton No. C-020599, 2003-Ohio-3386, ¶ 24.

With the admission of the patient information form and the account statement at trial, Blazic presented evidence supporting his claim against Binford. On its face, the patient information form shows that there was a contract between Blazic and Binford that Binford had signed. The form also expressly states that it is the patient's responsibility to pay to Blazic for amounts not covered by the patient's insurance. The

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record shows that Binford paid a co-pay and a partial payment in advance for the dental services. Her co-pay and advance payment did not cover the total cost and neither did her insurance, which paid some of the cost but did not cover the general anesthetic used. Blazic's office manager, Barbara Altimari, testified as a records custodian to the account statement and explained the accounting practices in Blazic's dental practice. Altimari explained that it was coincidental that the partial advanced payment and outstanding balance were for the same dollar amount—thus disputing Binford's assertion that she already paid the amount Blazic is seeking. There is nothing in the record indicating that Binford already paid the amount due to Blazic. Binford had an outstanding balance for dental services rendered and to which Blazic was entitled.

Upon reviewing the entire record, including the transcripts of the trial, we find no merit in Binford's assignments of error. Accordingly, we overrule her assignments of error and affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on September 4, 2019
per order of the court _____.

Presiding Judge