

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-30370  
Summary Calendar

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ROBERT GELLER,

Plaintiff-Appellant,

VERSUS

DONALD RICHARDSON, M.D.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
(CA-93-4221-N)

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(November 23, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

In this non-core adversary proceeding related to a title 11 bankruptcy proceeding, the plaintiff asserts medical malpractice. The district court dismissed under La. R.S. 40:1299.47(B)(1)(a)(i), which provides that "[n]o action against a health care provider . . ., or his insurer, may be commenced in any court before the claimant's proposed complaint has been pre-

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\* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

sented to a medical review panel . . . ." (Emphasis added.)

It is undisputed that the plaintiff has never pursued this matter before a medical review panel. He claims, on appeal as in the district court, that the bankruptcy laws preempt this requirement. As the district court pointed out in its statement of reasons, however, "[p]laintiff has not been able to cite the Court to any authority holding that the requirement of the Louisiana Medical Malpractice Act, or any other similar provision, has been displaced by Bankruptcy jurisdiction."

Plaintiff proceeds under a state law claim and is bound by the restrictions imposed by law upon his ability to assert such a claim. The district court's dismissal without prejudice is, accordingly, AFFIRMED.