

**OPINION SUMMARY  
MISSOURI COURT OF APPEALS EASTERN DISTRICT  
DIVISION TWO**

LISA MARKHAM,	)	No. ED94201
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	St. Charles County
vs.	)	
	)	Honorable Ted Clint House
ROMULO J. FAJATIN, M.D.,	)	
	)	Cause No. 03CV-125900
Respondent.	)	
	)	Filed: September 14, 2010
	)	

Lisa Markham (hereinafter, “Appellant”) appeals the trial court’s dismissal of her “lost chance of survival” claim against Romulo J. Fajatin, M.D., SSM Healthcare St. Louis, Donald G. Phillips, D.O., and Thomas A. Schneider, II, M.D. (hereinafter and collectively, “Defendants”). In her sole point on appeal, Appellant claims the trial court erred in dismissing her “lost chance of survival” action as untimely. Specifically, Appellant asserts the three-year statute of limitations for a wrongful death action should apply to a lost chance of survival action, rather than the two-year statute of limitations for a medical malpractice action.

AFFIRMED.

Division II Holds: The trial court properly dismissed Appellant’s lost chance of recovery or survival action against Defendants as untimely. The two-year statute of limitations period established in Section 516.105 RSMo (2000) applies to lost chance of recovery or survival actions because they are medical malpractice cases.

Opinion by: George W. Draper III, J.

Roy L. Richter, C.J., and Glenn A. Norton, P.J., concur

Attorney for Appellant: Timothy J. Forneris  
Attorneys for Respondent: Shaun J. Mackelprang  
Daniel N. McPherson

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