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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KATHLEEN EDWARDS,)	
)	Appeal from the Circuit Court
Plaintiff-Appellant,)	of Cook County.
)	
v.)	
)	No. 14 L 11696
DR. JOSEPH THOMAS, Individually, and as)	
Agent of ADVOCATE TRINITY HOSPITAL;)	
ADVOCATE TRINITY HOSPITAL, a not-for-)	The Honorable
Profit corporation, Individually, and by its Agent)	John Kirby,
and/or Employee, DR. JOSEPH THOMAS;)	Judge Presiding.
INTUITIVE SURGICAL INC., a Delaware)	
Corporation doing business in the State of Illinois,)	
And Medisafe America, LLC, a foreign)	
Corporation, doing business in the State of Illinois,)	
)	
Defendants-Appellees.)	

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Neville and Justice Mason concurred in the judgment.

ORDER

¶ 1 *Held:* circuit court's dismissal of plaintiff's product liability claims reversed and cause remanded where there was an issue of fact as to whether the information that provided the basis for those claims was inherently unknowable to plaintiff until she deposed the doctor she sued for medical malpractice; appellate court was without jurisdiction to consider the circuit court's dismissal of the plaintiff's breach of warranty claims where those counts were not included in the notice of appeal.

¶ 2 After experiencing significant complications following a hysterectomy, plaintiff Kathleen Edwards filed a complaint alleging medical malpractice against Dr. Joseph Thomas, the physician who performed the procedure, and Advocate Trinity Hospital (Advocate Hospital),¹ the facility in which the procedure was performed. Thereafter, Edwards filed an amended complaint that included product liability and breach of warranty claims against defendant Intuitive Surgical Inc. (Intuitive), the manufacturer of a piece of equipment used during her hysterectomy. Intuitive subsequently filed a motion to dismiss Edwards’s product liability claims, arguing that they were not commenced within the applicable statute of limitations. Intuitive also sought dismissal of Edwards’s breach of warranty claims on the grounds that such claims were not cognizable under Illinois law. Upon consideration, the circuit court granted Intuitive’s motion to dismiss Edward’s product liability and breach of warranty claims. Edwards appealed. For the reasons explained herein, we reverse the judgment of the circuit court and remand for further proceedings consistent with this disposition.

¶ 3 **BACKGROUND**

¶ 4 In December 2012, plaintiff sought medical treatment from Dr. Joseph Thomas, a licensed Illinois physician, after experiencing years of pelvic pain and heavy menses. Following an ultrasound of her pelvis and abdomen, Dr. Thomas diagnosed her with fibroid tumors and adenomyosis.² After rendering his diagnoses, Dr. Thomas recommended removal of plaintiff’s uterus by way of a robotic assisted “da Vinci” laparoscopic surgical procedure. Edwards elected to follow Dr. Thomas’s recommendation, and she underwent a laproscopic da Vinci robotic assisted hysterectomy at Advocate on February 11, 2013. Approximately five days after the

¹ Neither Doctor Thomas nor Advocate Trinity Hospital is a party to this appeal.

² Adenomyosis “occurs when endometrial tissue, which normally lines the uterus, exists within and grows into the musculature wall of the uterus.” <https://www.mayoclinic.org/diseases-conditions/adenomyosis/symptoms-causes/syc-20369138> (last visited March 2018).

procedure, plaintiff began experiencing post-operative complications, including significant abdominal pain near the surgical site and an inability to urinate. Her pain did not dissipate, and as a result, she was admitted to Advocate's emergency room. On February 20, 2013, Dr. Nelcar Gadrinab, a urology surgeon, diagnosed her with left hydronephrosis, a swelling of her left kidney due to a build-up of urine, which was caused by a compressed left ureter, an "injury" that resulted from plaintiff's surgery. Dr. Gadrinab then treated plaintiff by implanting a stent into plaintiff's left ureter. Plaintiff, however, continued to experience pain and she subsequently sought out treatment from Dr. John Cudecki, a urologist with privileges at Mercy Hospital and Medical Center (Mercy Hospital). On September 16, 2013, Dr. Cudecki performed a surgery to reconnect plaintiff's ureter to her kidney. At that time, Dr. Cudecki informed plaintiff that her ureter had been "cut" during her da Vinci robotic assisted hysterectomy procedure.

¶ 5 Thereafter, on November 12, 2014, plaintiff filed a complaint sounding in medical negligence against Dr. Thomas and Advocate. The complaint was accompanied by a report completed by a medical professional³ attesting to the merits of her medical malpractice allegations in accordance with section 2-622 of the Illinois Code of Civil Procedure (Code or Civil Code) (735 ILCS 5/2-622 (West 2014)). Specifically, the author of the report, who reviewed plaintiff's medical records, including Dr. Thomas's dictated post-operative report, opined that Edwards's injury sustained was "due to improper surgical technique."

¶ 6 The parties then engaged in preliminary discovery, and plaintiff and Dr. Thomas were both deposed. During her deposition, plaintiff provided an overview of her medical history, her decision to proceed with a da Vinci robotic assisted surgery to alleviate her chronic pelvic pain and bleeding, and the complications she experienced following the procedure. She testified, in

³ The author of the report is not identified by name.

pertinent part, that she began experiencing a “twinge” in her vaginal area as well as difficult and painful urination approximately five days after the February 11, 2013, surgery. When the symptoms continued, plaintiff contacted Dr. Thomas, who scheduled a CT exam on February 18, 2013. She was subsequently admitted to Advocate’s emergency room on February 20, 2013, and at that point, she was informed by Dr. Gadrinab, another physician with privileges at Advocate, that he needed to “put a stent in because [she] had some kind of injury done during surgery.” After receiving that information, plaintiff testified that she knew that Dr. Thomas had “screwed [her].” Plaintiff had a follow up visit with Dr. Gadrinab the next week, and during that visit, he used a diagram to show her where her ureter had been “nicked” during her hysterectomy. Unfortunately, despite the placement of the stent, plaintiff continued to experience pain. As a result, she sought out treatment from Dr. Cudecki, a physician with privileges at Mercy Hospital. During the course of her treatment with Dr. Cudecki, plaintiff underwent a second stent implantation. When that procedure failed to remedy plaintiff’s continued pain, Dr. Cudecki performed a reconstructive surgery wherein her ureter was reconnected to her kidney. On September 16, 2013, following that surgery, Dr. Cudecki informed plaintiff that Dr. Thomas had “cut her” during her hysterectomy.

¶ 7 Dr. Thomas was deposed for the first time on December 29, 2015. During his deposition, Dr. Thomas provided details about his treatment of plaintiff and his use of the da Vinci robotic machine. He also identified some transcription errors in his dictated post-operative surgical report. During his deposition, Dr. Thomas acknowledged that plaintiff sustained injuries to one of her kidneys and to her lower left ureter during the February 2013 procedure; however, he opined that it was “very possible and likely that a thermal injury may have occurred.” He explained that he did not operate in the area in which plaintiff’s injuries were sustained, which

made it more likely that the cause of her injuries was thermal. Dr. Thomas noted that there are “dozens and dozens of cases” in which patients sustained thermal injuries during the course of da Vinci robotic assisted surgical procedures. The thermal injuries occur due to the presence of micro-cracks in the robotic arms. He testified that he became aware of this issue following plaintiff’s surgery. He noted such information can be found on Intuitive’s website. The information can also be found on the FDA’s website and in other publications. He did not identify the names of any specific articles or their dates of publication, but believed that they “came out in 2014.”

¶ 8 Thereafter, on June 17, 2016, plaintiff sought leave to file an amended complaint. In her motion, plaintiff referenced Dr. Thomas’s testimony identifying errors in his dictated post-operative report and detailing his belief that her injuries were not caused by improper surgical technique, but instead “occurred due to a malfunction with the arms of the ‘da Vinci’ robot which was used, by him, to perform [the] surgical procedure.” She noted that Dr. Thomas specifically testified that he “believed [she] sustained thermal injuries as a result of microcracks in the robotic arms.” Based on this testimony, plaintiff sought to file an amended complaint to add “counts of negligence, strict products liability, breach of express and implied warranties, against” Intuitive, “the manufacturer[] and/vendor[] of the ‘da Vinci’ robot which was used by Defendants, Dr. Thomas, and Advocate Trinity Hospital, in the performance of a surgical procedure on the Plaintiff.”

¶ 9 The circuit court granted plaintiff’s motion, and she filed her amended complaint on July 1, 2016. In her amended multi-count filing, plaintiff re-alleged her claims of medical negligence against Dr. Thomas and Advocate. For the first time, however, plaintiff brought claims against Intuitive, alleging in pertinent part, that the da Vinci machine caused her to suffer thermal

injuries during her February 2013 hysterectomy, which resulted in hydronephrosis and compression of her left ureter.⁴ Plaintiff's amended complaint alleged four theories of liability against Intuitive: negligent design, manufacture and sale of the da Vinci robotic system (count III); strict product liability (count IV); breach of express warranty (count V); and breach of implied warranty (count VI).

¶ 10 Intuitive responded with a motion to dismiss plaintiff's claims, pursuant to section 2-619.1 of the Civil Code (735 ILCS 5/2-619.1 (West 2016)). In its motion, Intuitive sought dismissal of plaintiff's product liability claims (counts III and IV) on statute of limitations grounds pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2014)), because the claims were filed more than two years after plaintiff knew that she sustained a surgical injury and that it was wrongfully caused. Intuitive also sought dismissal of plaintiff's breach of warranty claims (counts V and VI) pursuant to section 2-615 of the Code (735 ILCS 5/2-615 (West 2014)), arguing that those claims were not cognizable under Illinois law because plaintiff was not the purchaser of the da Vinci robotic machine utilized during her surgery.

¶ 11 The circuit court subsequently presided over a hearing on Intuitive's motion. At the hearing, the court was advised that the "medical literature that exists" regarding problems associated with the da Vinci robot "goes back much further than 2013" and that "there are tons of literature and lawsuits and class action lawsuits from 2013 and before" pertaining to injuries, including thermal injuries, resulting from defects in Intuitive's da Vinci robotic machines. Ultimately, after considering the arguments and evidence presented, the circuit court granted Intuitive's section 2-619.1 motion to dismiss. In doing so, the court concluded that plaintiff's

⁴ The term "thermal injury" is not specifically defined in the pleadings. Similarly, the means by which micro-cracks in the robotic arms of the da Vinci machine can cause thermal injuries is not explicitly explained in the pleading.

product liability claims were not commenced within the applicable 2-year statute of limitations and that dismissal of those claims were warranted pursuant to section 2-619 of the Code. The court reasoned that plaintiff knew that she was injured and that it was wrongfully caused by September 2013 at the latest, which was when Dr. Cudecki informed her that Dr. Thomas had cut her during her February 2013 surgery; however, she did not bring suit against Intuitive until July 1, 2016, which was well after the expiration of the applicable statute of limitations. The court specifically found that plaintiff failed to conduct a diligent investigation into all potential causes of her injuries and that she could not avail herself of the discovery rule to excuse the untimely filing. With respect to the breach of warranty claims, the court found that dismissal of those claims was warranted pursuant to section 2-615 of the Code, reasoning: “Here the plaintiff is asking the Court to expand significantly the class of plaintiffs who can bring breach of warranty claims beyond what is allowed by Illinois law or contemplated by any Illinois Appellate Court. Therefore, defendant’s motion to dismiss the plaintiff’s breach of warranty claim[s] is granted.”

¶ 12 This appeal followed.⁵

¶ 13 ANALYSIS

¶ 14 On appeal, plaintiff contends that the circuit court erred in dismissing her product liability claims on statute of limitations grounds. She invokes the discovery rule and argues that her product liability claims were filed within two years of Dr. Thomas’s deposition, wherein he identified errors in his post-operative report and discussed the possibility that her injuries were thermal injuries that were caused by micro-cracks in the arms of the da Vinci machine. Because she could not have discovered the possibility that her injuries were caused by something other

⁵ Plaintiff’s claims against the other defendants remain pending.

than Dr. Thomas's surgical technique until after his deposition concluded, she argues that her product liability claims were timely.

¶ 15 Intuitive responds that the circuit court properly dismissed plaintiff's product liability claims as untimely because they were not filed within the applicable two-year statute of limitations. Intuitive argues that plaintiff knew she was medically injured shortly after her February 2013 hysterectomy procedure, but failed to name Intuitive as a defendant until July 2016. Intuitive asserts that plaintiff's lack of diligence and failure to investigate all potential causes of her injuries within two years of her surgery precludes her from availing herself of the discovery rule.

¶ 16 Section 2-619.1 of the Civil Code (735 ILCS 5/2-619.1 (West 2014)) provides a mechanism pursuant to which a party may seek dismissal of claims via sections 2-615 (735 ILCS 5/2-615 (West 2014)) and 2-619 of the Code (735 ILCS 5/2-619 (West 2014)). *Prospect Funding Holdings, LLC v. Saulter*, 2018 IL App (1st) 171277, ¶ 23. The proponent of a 2-619 motion to dismiss admits the legal sufficiency of the factual allegations contained in the complaint, but asserts that the complaint is barred by an affirmative matter that defeats the claim. *Kedzie and 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 115 (1993); *Caywood v. Gossett*, 382 Ill. App. 3d 124 382 Ill. App. 3d 124, 129 (2008). For example, section 2-619(a)(5) of the Code, in pertinent part, provides for the dismissal of a claim that "was not commenced within the time limited by law." 735 ILCS 5/2-619(a)(5) (West 2014). A motion to dismiss filed pursuant to section 2-615 of Code, in contrast, attacks the legal sufficiency of a complaint based on alleged defects that are apparent on the face of the document. 735 ILCS 5/2-615 (West 2014); *Kanerva v. Weems*, 2014 IL 115811, ¶ 33. The circuit court's dismissal of a claim

pursuant to either section is subject to *de novo* review. *Smith v. Waukegan Park District*, 231 Ill. 2d 111, 115 (2008); *Heastie v. Roberts*, 226 Ill. 2d 515, 531 (2007).

¶ 17 “The primary purposes of the statute of limitations are to require prosecution of a right of action within a reasonable time to prevent loss or impairment of available evidence and to discourage delay in the initiation of claims.” *Hoffman v. Orthopedic Systems, Inc.*, 327 Ill. App. 3d 1004, 1009 (2002); see also *Golla v. General Motors Corp.*, 167 Ill. 2d 353, 369-70 (1995) (quoting *Order of R.R. Telegraphers v. Railway Express Agency, Inc.*, 321 U.S. 342, 349 (1944)) (“Statutes of limitations rest upon the premise that ‘the right to be free of stale claims in time comes to prevail over the right to prosecute them’ ”). Product liability claims, in particular, are subject to the two-year statute of limitations period set forth in section 13-213 of the Civil Code. 735 ILCS 5/13-213(d) (West 2014). That provision, in pertinent part, provides as follows:

“§ 13-213. Product Liability; statute of repose.

(d) *** [T]he plaintiff may bring an action within 2 years after the date on which the claimant knew or through the use of reasonable diligence should have known, of the existence of the personal injury, death, or property damage, but in no event shall such action be brought more than 8 years after the date on which such personal injury, death or property damage occurred.” 735 ILCS 5/13-213(d) (West 2014).

¶ 18 The plain language of the statute “incorporate[s]” the discovery rule and “delays the commencement of [the] applicable limitations period until the plaintiff knows or should have known that she is injured and that such injury may have been wrongfully caused.” *Golla*, 167 Ill. 2d at 361. The discovery rule was created to alleviate the harsh consequences that may result from the literal and stringent application of a statute of limitations period and has been “applied

across a broad spectrum of litigation, including products liability actions.” *Id.* at 360-61; see also *Hoffman*, 327 Ill. App. 3d 1009. The phrase wrongfully caused “does not mean knowledge of a specific defendant’s negligent act or knowledge that an actionable wrong was committed; rather, a person knows or reasonably should know an injury is ‘wrongfully caused’ when he or she possesses ‘sufficient information concerning [an] injury and its cause to put a reasonable person on inquiry to determine whether actionable conduct is involved.’ ” *Hoffman*, 327 Ill. App. 3d at 1011 (quoting *Knox College v. Celotex Corp.*, 88 Ill. 2d 407, 416 (1981)). At that point, it becomes the burden of the injured party to inquire further and determine the existence of an applicable cause of action. *Id.* The purpose of this rule is “to encourage diligent investigation on the part of potential plaintiffs without foreclosing any claims of which the plaintiffs could not have been aware.” *Mitsias v. I-Flow Corp.*, 2011 IL App (1st) 101126, ¶ 21. Generally, the time pursuant to which a plaintiff knew or should have known of an injury and that it was wrongfully caused are questions of fact; however, they may be considered matters of law where the facts are undisputed and where only one conclusion can be drawn from those facts. *Gapinski v. Gujrati*, 2017 IL App (3d) 150502, ¶ 50.

¶ 19 Here, the record reveals that plaintiff experienced significant pain following her February 11, 2013, surgery. As a result, she was admitted to Advocate’s emergency room on February 20, 2013, and received treatment from Dr. Gadrinab, who informed her that she had “some kind of injury” as a result of her surgery. Based on Dr. Gadrinab’s statement, plaintiff testified in her discovery deposition that she knew that Dr. Thomas had “screwed” her at that point. Thereafter, on September 16, 2013, plaintiff was informed by Dr. Cudecki that Dr. Thomas had “cut” her. The record thus shows that plaintiff knew by September 16, 2013, at the very latest, that she sustained an injury and that it was wrongfully caused. This conclusion is bolstered by the fact

that plaintiff retained an attorney and filed a medical malpractice action against Dr. Thomas and Advocate by November 12, 2014. See, *e.g.*, *Hoffman*, 327 Ill. App. 3d at 1010 (finding the fact that the plaintiff retained an attorney following her surgery “demonstrated that she knew she had suffered an injury and that the injury may have been wrongfully caused”). Plaintiff, however, did not bring suit against Intuitive until July 1, 2016, more than two years after she knew she had sustained an injury and that it was wrongfully caused.

¶ 20 Plaintiff, however, invokes the discovery rule and argues that she could not have known that “her injury could have been wrongfully caused by Intuitive” at the time she filed her initial timely complaint. Rather, she did not discover that there was a basis upon which to assert claims against Intuitive for product liability until Dr. Thomas’s December 29, 2015, deposition. During that deposition, Dr. Thomas identified errors in his dictated post-operative surgical report and acknowledged that plaintiff had been injured during her February 2013 surgery. He hypothesized, however, that the injuries plaintiff sustained were actually thermal injuries that resulted from the possible presence of micro-cracks in the robotic arms of the da Vinci machine. Dr. Thomas explained that following plaintiff’s injury, he became aware of scientific literature detailing the links between thermal injuries suffered by surgical patients and micro-cracks in the robotic arms of da Vinci machines. He did not identify specific articles or their publication dates, but testified that he believed that the information “came out” in 2014. Relying on the information provided in Dr. Thomas’s deposition, plaintiff argues that she could not have known that her injury was caused by anything other than his improper surgical technique prior to December 2015; rather, she contends that any alternative cause of her injury was “inherently unknowable” until Dr. Thomas was deposed. Because her products liability claims were filed

within two years of Dr. Thomas's December 2015 deposition, she insists that the claims were timely filed.

¶ 21 In support, plaintiff cites to *Mitsias v. I-Flow Corp.*, 2011 IL App (1st) 101126. In that case, the plaintiff patient filed a medical malpractice action against her doctor following shoulder surgery. Several years after the action was filed, the plaintiff's expert testified during a discovery deposition that new medical literature suggested that there was a causal link between the type of injury that the plaintiff sustained and pain pumps, a piece of medical equipment used during the plaintiff's surgery. The new medical literature was not available prior to the initiation of the plaintiff's medical malpractice lawsuit; rather it was published after the plaintiff's medical malpractice action was filed. Upon learning of the new medical literature, the plaintiff filed an amended complaint reiterating her claims of medical malpractice and including, for the first time, a product liability action based on the defective pain pump. The circuit court, however, found that the newly pled product liability action was time-barred, because it was initiated more than two years after the plaintiff became aware of her injury, even though it was initiated less than two years after the plaintiff learned of the recent scientific literature regarding the problems associated with pain pumps. On review, this court found that the circuit court erred in concluding that the plaintiff's product liability claim was time-barred, holding: "where a plaintiff knows or should reasonably know that her injury was caused by one source, but remains unaware of another source that *could not be discovered* through the exercise of diligent inquiry, the statute does not begin to run with regard to that second source until such time as that second source would become discoverable through diligent inquiry." (Emphasis added.) *Id.* ¶ 31. In so holding, we emphasized that the "plaintiff did not slumber on her rights"; rather, "her delay in bringing her products liability suit was not due to any lack of diligence on her part but rather, to

the fact that the scientific community was not aware of the dangers associated with pain pumps” until after the plaintiff filed her malpractice action. *Id.* ¶ 29.

¶ 22 Here, we find that there is a question of fact as to whether or not plaintiff could have reasonably discovered a second potential wrongful cause of her injuries within the applicable two-year statute of limitations. That is, we find that there is an issue of fact as to when the link between thermal injuries and micro-cracks in da Vinci machines became known to the scientific community. As set forth above, Dr. Thomas testified that he became aware of the issue of patients suffering thermal injuries as a result of micro-cracks in the presence of the robotic arms of da Vinci machines sometime after plaintiff’s February 2013 surgery. He believed such information “came out” in 2014; however, Dr. Thomas did not identify specific articles or their publication dates. At the hearing on Intuitive’s motion to dismiss, Intuitive acknowledged that medical literature documenting injuries caused to patients who undergo da Vinci surgical procedures existed, but stated that such literature went “back much further than 2013.” In addition, Intuitive further informed the court that a number of lawsuits had been filed against the company prior to 2013 in response to surgical injuries caused by purported defects in the da Vinci machine. Intuitive, however, did not identify specific lawsuits or provide the court with any articles or scientific literature substantiating its claim that such information was available to plaintiff before she filed her lawsuit. In its brief, Intuitive observes that an FDA recall was issued for certain da Vinci instruments on July 15, 2013, and that NBC news questioned the safety of robotic surgery in June 2013; however, neither citation that Intuitive provides specifically references the link between micro-cracks and thermal injuries. Given that neither party has provided any evidence to substantiate the date on which the scientific community became aware that micro-cracks in da Vinci robotic machines could cause thermal injuries to

surgical patients, we conclude that there is an issue of fact as to when such information became available to plaintiff. Therefore, we reverse the circuit court's order dismissing plaintiff's product liability claims on statute of limitations grounds and remand for further proceedings.

¶ 23 Plaintiff next contests the propriety of the circuit court's dismissal of her breach of warranty claims. Intuitive, however, submits that this court does not have jurisdiction to review the circuit court's disposition of those claims because plaintiff failed to include that portion of the circuit court's order in her notice of appeal.⁶

¶ 24 “ ‘The filing of a notice of appeal “is the jurisdictional step which initiates appellate review.” ’ ” *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2001) (quoting *People v. Smith*, 228 Ill. 2d 95, 104 (2008), quoting *Niccum v. Botti, Marinaccio, DeSalvo & Tameling, Ltd.*, 182 Ill. 2d 6, 7 (1998)). Illinois Supreme Court Rule 303 sets forth the applicable requirements for notices of appeal, and provides, in pertinent part, that a notice of appeal “shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court.” Ill. S. Ct. R. 303(b)(2) (eff. July 1, 2017). Because the purpose of a notice of appeal is to advise the party who prevailed in the circuit court that the other party is seeking review of the circuit court's judgment, a notice of appeal “ ‘ “will be deemed sufficient to confer jurisdiction on an appellate court when it fairly and adequately sets out the judgment complained of and the relief sought, thus advising the successful litigant of the nature of the appeal.” ’ ” *General Motors Corp.*, 242 Ill. 2d at 176 (quoting *Smith*, 228 Ill. 2d at 105, quoting *Lang v. Consumers Insurance Service, Inc.*, 222 Ill. App. 3d 226, 229 (1991)). The scope of an appellate court's jurisdiction is thus limited to the judgments or parts of judgments specified in the appellant's notice of appeal. *General Motors Corp.*, 242 Ill. 2d at 176 (“A notice of appeal

⁶ Plaintiff failed to respond to Intuitive's jurisdictional argument in her reply brief.

confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal”); *In re Estate of York*, 2015 IL App (1st) 132830 (recognizing that a reviewing court “lack[s] jurisdiction to consider issues not specified in the notice of appeal”); *Fitch v. McDermott, Will & Emery, LLP*, 401 Ill. App. 3d 1006, 1014 (2010) (“[W]hen an appeal is taken from a specified judgment, the appellate court acquires no jurisdiction to review other judgments or parts of judgments that are not specified in or inferred from the notice of appeal”).

¶ 25 Here, plaintiff’s notice of appeal was highly specific and revealed that she sought reversal of “the February 8, 2017, Order of the Honorable John P. Kirby, granting Defendant, Intuitive Surgical Inc.’s, Section 2-619 Motion to Dismiss Counts III and IV of Plaintiff’s First Amended Complaint.” As set forth above, Intuitive filed motion to dismiss pursuant to section 2-619.1 of the Civil Code in which it argued that dismissal of plaintiff’s product liability claims, counts III and IV, was warranted pursuant to section 2-619 because those claims were commenced outside of the applicable statute of limitations. Intuitive further argued that dismissal of plaintiff’s breach of warranty claims, counts V and VI, was warranted pursuant to section 2-615 of the Civil Code because such claims were not cognizable under Illinois law as she was not the purchaser of the da Vinci robot utilized during her surgery. The circuit court ultimately agreed with the arguments advanced in Intuitive’s combined 2-619.1 motion and dismissed all of plaintiff’s claims against Intuitive with prejudice. Plaintiff’s notice of appeal, however, solely references the court’s dismissal of her product liability claims, which were dismissed on statute of limitations grounds pursuant to section 2-619 of the Code. Her notice of appeal does not contain any reference to her breach of warranty claims, which were dismissed pursuant to section 2-615, a different statutory provision. Given that the substance of plaintiff’s notice of appeal clearly

denotes that she only sought appeal from the circuit's court's 2-619 dismissal of her product liability claims, counts III and IV, we are without jurisdiction to review the circuit court's 2-615 dismissal of her breach of warranty claims, counts V and VI. See, e.g., *In re Estate of York*, 2015 IL App (1st) 132830, ¶¶ 37, 40 (finding that the appellate court lacked jurisdiction to consider the circuit court's dismissal of count I of the plaintiff's complaint, which was dismissed pursuant to section 2-619 of the Code, where the plaintiff's notice of appeal specified that she solely sought review of the court's dismissal of count II of her complaint, which was disposed of via section 2-615 of the Code); *Fitch*, 401 Ill. App. 3d at 1015 (finding that appellate jurisdiction extended only to the circuit court's disposition of the specific counts identified in the notice of appeal).

¶ 26

CONCLUSION

¶ 27

The judgment of the circuit court is reversed and cause remanded for proceedings consistent with this disposition.

¶ 28

Reversed and remanded.