



Ethridge Dyer and Eloise Dyer, husband and wife, appeal from the district court's<sup>1</sup> adverse judgment upon a jury verdict, and its order denying them judgment as a matter of law or a new trial, in their diversity action claiming medical malpractice. After careful review of the record and the parties' briefs, we affirm for the reasons stated by the district court in its order, and we reject as meritless the Dyers' additional claim of instructional error. For the first time on appeal, the Dyers challenge remarks made by opposing counsel during closing argument; reviewing for plain error, we conclude that none of the challenged remarks prejudiced any of the Dyers' substantial rights. See Rush v. Smith, 56 F.3d 918, 922 (8th Cir.) (en banc), cert. denied, 516 U.S. 959 (1995). Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup>The Honorable H. FRANKLIN WATERS, United States District Judge for the Western District of Arkansas.