STATE OF MICHIGAN

IN THE COURT OF APPEALS

CHIN-TI LIN, MD

Plaintiff-Appellant,

-v-

COA No: 261918
Lower Court No.: 04-80210-CZ

THE BOARD OF HOSPITAL MANAGERS
OF HURLEY MEDICAL CENTER,
a City of Flint Hospital,

Defendant-Appellee.

SAKIS & SAKIS, PLC
Attorneys for Plaintiff-Appellant
By: Raymond S. Sakis (P19843)
Dennis J. Grifka (P23048)
Jason R. Sakis (P59525)
Suite 123
3250 West Big Beaver Road
Troy, Michigan 48084
248.649.1160

PORTNOY & ROTH PC
Attorneys for Defendant-Appellee
By: Robert P. Roth (P27238)
Suite 103
3883 Telegraph Road
Bloomfield Hills, Michigan 48302
248.647.4242

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TROY OFFICE
SANDRA SCHULTZ ENGEL
CHIEF CLERK

SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737

PLAINTIFF-APPELLANT'S SUPPLEMENTAL RESPONSE TO DEFENDANT-APPELLEE'S BRIEF

It is vital for this Honorable Court to recognize that the Lower Court in granting the Defendant's Motion for Summary Judgment did not have before it any record of discovery material that would enable it to make a decision on the merits of Plaintiff's Complaint. Plaintiff was entitled to pursue discovery, by way of depositions and other avenues to determine whether the Plaintiff's

application for privileges was arbitrary and capricious. Since the Plaintiff -Appellant was never given the opportunity to proceed with discovery on the issue of the Executive Committee's recommendations, the trial court's decision to grant the Summary Judgment was not based on any facts or evidence.

Rather, the trial court's decision was based on nothing more than conjecture and preconceived notions gleaned from Plaintiff's first "procedural due process" litigation. The trial court, in this case, had no substantive materials, discovery or evidence upon which it could base its decision to summarily dismiss Plaintiff's action.

Contrary to the Defendant-Appellee's argument that the substantive due process allegation was considered by the lower court by virtue of its denial of the Plaintiff-Appellant's motion to amend the complaint in the first lawsuit, it was factually impossible for that to have occurred because no copy of the voluminous hearing transcripts (one inch thick) were ever filed in the actions below. Portions of the hearing transcripts were not even made part of the records below.

The Appellant therefore prays that this Honorable Court remand this case to the lower court and allow him the opportunity to pursue his substantive due process violations and show that the hearing panel's decision was indeed arbitrary, capricious and unreasonable.

SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737

SAKIS & SAKIS, PLC
Attorneys for Plaintiff

DATED: September 6, 2005

By: _____
Raymond S. Sakis (P19843)
Dennis J. Grifka (P23048)
Jason R. Sakis (P59525)
Suite 123
3250 West Big Beaver Road
Troy, Michigan 48084
248.649.1160

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COA No: 261918
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Attorneys for Plaintiff-Appellant
By: Raymond S. Sakis (P19843)
Dennis J. Grifka (P23048)
Jason R. Sakis (P59525)
Suite 123
3250 West Big Beaver Road
Troy, Michigan 48084
248.649.1160

PORTNOY & ROTH PC
Attorneys for Defendant-Appellee
By: Robert P. Roth (P27238)
Suite 103
3883 Telegraph Road
Bloomfield Hills, Michigan 48302
248.647.4242

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SANDRA L. SCHULTZ HENGEL
CHIEF CLERK

SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737

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SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737

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SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

CHIN-TI LIN, MD

Plaintiff,

-v-

Case No. 03 - 77424 - CZ
Honorable Archie L. Hayman

THE BOARD OF HOSPITAL MANAGERS
OF HURLEY MEDICAL CENTER,
a City of Flint Hospital,

Defendant.

SAKIS & SAKIS, PLC
Attorneys for Plaintiff
By: Raymond S. Sakis (P19843)
Dennis J. Grifka (P23048)
Jason R. Sakis (P59525)
Suite 123
3250 West Big Beaver Road
Troy, Michigan 48084
248.649.1160

PORTNOY & ROTH PC
Attorneys for Defendant
By: Robert P. Roth (P27238)
Suite 103
3883 Telegraph Road
Bloomfield Hills, Michigan 48302
248.647.4242

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On September 6, 2005 I served a copy of Plaintiff-Appellant's Supplemental Response To Defendant-Appellee's Brief , Table of Contents and Table of Authorities and this Proof Of Service upon:

Robert P. Roth Esq
PORTNOY & ROTH PC
Suite 103
3883 Telegraph Road
Bloomfield Hills, Michigan 48302

via 1st class U.S. mail.

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF.

JoAnne Weeks

SAKIS & SAKIS, P.L.C.
Attorneys at Law
3250 West Big Beaver Road, Suite 123
Troy, Michigan 48084
Telephone: 248.649.1160
Fax: 248.637.9737