

# Court of Appeals, State of Michigan

## ORDER

Jean Bosworth v Miles L Singer

Docket No. 301885

LC No. 2009-102731-NH

Pat M. Donofrio  
Presiding Judge

Henry William Saad

Deborah A. Servitto  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), the Court orders that the October 18, 2010 order is VACATED to the extent it holds that plaintiff's lawsuit was timely filed. There exist questions of fact whether plaintiff should have known of a possible cause of action within days of surgery. The trial court's ruling essentially grants summary disposition to plaintiff, which is improper where questions of fact exist. *Zwiers v Grownney*, 286 Mich App 38, 42; 778 NW2d 81 (2009).

The application for leave to appeal is otherwise DENIED for failure to persuade the Court of the need for immediate appellate review.

The motion for stay pending appeal is DENIED as moot.

This order shall have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAR 15 2011

Date

Chief Clerk