

STATE OF MICHIGAN
COURT OF APPEALS

SUSAN FURR and WILLIAM FURR,

Plaintiffs-Appellees,

FOR PUBLICATION
October 24, 2013

v

MICHAEL McLEOD, M.D., TARA B. MANCL,
M.D., MICHIGAN STATE UNIVERSITY
KALAMAZOO CENTER FOR MEDICAL
STUDIES, INC., and BORGESS MEDICAL
CENTER,

No. 310652
Kalamazoo Circuit Court
LC No. 2010-0005551-NH

Defendants-Appellants.

Before: WHITBECK, P.J., and OWENS and M.J. KELLY, JJ.

OWENS, J. (*concurring*).

The majority opinion correctly recognizes that this case is controlled by *Tyra v Organ Procurement Agency of Michigan*, ___ Mich App ___; ___ NW2d ___ (2013), which determined that *Zwiers v Growney*, 286 Mich App 38; 778 NW2d 81 (2009), remained good law under *Driver v Naini*, 490 Mich 239; 802 NW2d 311 (2011), and that the trial court may amend a prematurely filed complaint. Accordingly, I concur in the majority's result that the trial court's decision must be affirmed. However, I do not agree that a conflict panel should be convened under MCR 7.215(J)(3), because I do not believe that *Tyra* was wrongly decided.

/s/ Donald S. Owens