

Order

Michigan Supreme Court
Lansing, Michigan

May 26, 2006

Clifford W. Taylor,
Chief Justice

130078 & (52)(55)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

ABDUL AL-SHIMMARI,
Plaintiff-Appellee/
Cross-Appellant,

v

SC: 130078
COA: 262655
Wayne CC: 04-407162-NH

THE DETROIT MEDICAL CENTER,
HARPER-HUTZEL HOSPITAL,
UNIVERSITY NEUROSURGICAL
ASSOCIATES, P.C., and SETTI
RENGACHARY, M.D.,
Defendants-Appellants/
Cross-Appellees.

On order of the Court, the application for leave to appeal the November 1, 2005 judgment of the Court of Appeals, the application for leave to appeal as cross-appellant, and the motion to strike are considered. The motion to strike is DENIED. We direct the Clerk to schedule oral argument on whether to grant the applications or take other peremptory action. MCR 7.302(G)(1). The parties shall include among the issues to be addressed at oral argument whether (1) the Court of Appeals correctly granted a jury trial on the service of process issue; (2) the Court of Appeals correctly determined that defendants' attorney's participation in an evidentiary stipulation did not constitute a "general appearance" sufficient to waive defendant physician's ability to challenge service of process, in reliance on *Penny v ABA Pharmaceutical Co (On Remand)*, 203 Mich App 178 (1993); and (3) *Penny* is consistent with MCR 2.117(A) and (B). The parties may file supplemental briefs within 42 days of the date of this order, but they should avoid submitting a mere restatement of the arguments made in their application papers.



p0523

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 26, 2006

Corbin R. Davis

Clerk