Court of Appeals, State of Michigan

ORDER

Tally Kaczynski v Peggy Anderson
Wayne E White v Barbara Ann Karmanos Cancer Institute

Docket No. 268529;270320

LC No. 05-024707 NH;05-534994 NH

Bill Schuette
Presiding Judge

David H. Sawyer
Michael R. Smolenski
William B. Murphy
Kurtis T. Wilder
Jane E. Markey
Karen M. Fort Hood
Judges

Pursuant to orders dated February 7, 2007, and February 23, 2007, this Court convened this special panel under MCR 7.215(J)(3) to resolve the conflict between our decision in *Apsey v Mem Hosp* (*On Reconsideration*), 266 Mich App 666; 702 NW2d 870 (2005), rev'd ___ Mich ___ (2007), and our later decisions in *Kaczynski v Anderson*, 274 Mich App 49; ___ NW2d ___ (2007), vacated in part 274 Mich App 801 (2007), and *White v Barbara Ann Karmanos Cancer Institute*, ___ Mich App ___ ; ___ NW2d ___ (2007) (Docket No. 270320), vacated ___ Mich App ___ (2007), concerning whether an affidavit of merit that is notarized by an out-of-state notary public is invalid if it is not accompanied by the certification required in MCL 600.2102. However, on May 1, 2007, the Michigan Supreme Court, in lieu of granting leave to appeal, issued an opinion in *Apsey v Mem Hosp*, ___ Mich ___; ___ NW2d ___ (2007) (Docket No. 129134), addressing the out-of-state notary requirements for an affidavit of merit in a medical malpractice claim. Therefore, because we conclude that our Supreme Court's decision in *Apsey* effectively resolves the conflict at issue in these consolidated cases, under MCR 7.215(J)(5), we order that these cases be returned to the original panels for further consideration in light of our Supreme Court's decision in *Apsey*.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 1 - 2007
Date

Sandra Schultz Mengel
Chief Clerk