

Court of Appeals, State of Michigan

ORDER

Betty Glenn v Harvey Lefkowitz DPM

Docket No. 308325

LC No. 11-009099-NH

Michael J. Talbot
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the January 10, 2012, order, of the Wayne County Circuit Court, which denied defendants-appellants' motion to transfer venue of plaintiff's medical malpractice lawsuit to Oakland County, is REVERSED. Under MCL 600.1629(1)(a)(ii), Oakland County is the proper venue of the lawsuit because the original injury occurred there and the registered office of a defendant is located there. See *Massey v Mandell*, 462 Mich 375, 381-383; 614 NW2d 70 (2000). The venue analysis is not affected by the failure of some defendants to challenge venue before filing their answer to the complaint, as required under MCR 2.221. Furthermore, Oakland County is the proper venue with respect to defendants-appellants (who timely objected to venue) under MCL 600.1629(1)(b) because the original injury occurred there and because plaintiff resides there. Therefore, the trial court was required to transfer the lawsuit to Oakland County pursuant to MCR 2.223(A), and the trial court did not have discretion under MCR 2.222(C) to retain the entire lawsuit because Wayne County was not a proper venue with respect to any of the defendants under MCL 600.1629. See *Lester v Gottschalk*, 42 Mich App 596; 202 NW2d 562 (1972). Accordingly, the trial court clearly erred in denying the motion and the matter is REMANDED to the trial court for entry of an order transferring the lawsuit to Oakland County Circuit Court.

Pursuant to MCR 7.215(F)(2), this order shall take immediate effect. The Court retains no further jurisdiction.



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

AUG 27 2012

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Chief Clerk