

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In re Estate of LOUISE ARVIN, Deceased.

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SHARON LATZ, Personal Representative of the  
Estate of Louise Arvin, Deceased,

UNPUBLISHED  
March 1, 2005

Plaintiff-Appellant,

v

CARDINAL DEVELOPMENT COMPANY, d/b/a  
OVID HEALTHCARE CENTER,

No. 236820  
Clinton Circuit Court  
LC No. 01-009281-NZ

Defendant-Appellee.

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Before: Murray, P.J., and Sawyer and Fitzgerald, JJ.

MURRAY, P.J. (*concurring*).

I concur in the majority's determination that, after consideration of *Bryant v Oakpointe Villa Nursing Ctr*, 471 Mich 411; 684 NW2d 864 (2004), reversal and remand is still necessary.

Because there is no dispute that a professional relationship existed between the parties, the critical inquiry is "whether the claim raises questions of medical judgment requiring expert testimony or, on the other hand, whether it alleges facts within the realm of a jury's common knowledge and experience." *Bryant, supra* at 423. The difficulty in deciding this question is that, although the allegations within the second amended complaint sound in ordinary negligence, both the circumstances alleged to have caused the different injuries, logic and the attorney's argument causes one to believe that plaintiff suffered from a serious skin condition that caused her to be susceptible to severe injury from relatively innocent contacts with her body. If that is so, expert testimony about how to handle such a precarious situation would likely be required.

However, there was no evidence submitted with defendant's motion which establishes as an undisputed fact that plaintiff did suffer from such a skin condition. MCR 2.116(C)(10); MCR 2.116(G)(4). Absent such evidence, summary disposition was premature, thus necessitating

reversal and remand.

/s/ Christopher M. Murray