

STATE OF MICHIGAN
COURT OF APPEALS

VELMA COPPOLA, Personal Representative of
the Estate of ARSENIA GABBANA, Deceased,

Plaintiff-Appellant,

v

MIDDLEBELT NURSING HOME, INC., d/b/a
MIDDLEBELT HEALTHCARE CENTER, and
KETAN TOLIA, M.D., Jointly and Severally,,

Defendant-Appellees.

UNPUBLISHED
July 27, 2006

No. 265316
Wayne Circuit Court
LC No. 05-513454-NH

Before: Hoekstra, P.J., and Neff and Owens, JJ.

NEFF, J. (*concurring in part and dissenting in part*).

I agree with the majority opinion that *Waltz v Wyse*, 469 Mich 642, 644, 650; 677 NW2d 813 (2004), is to be given full retroactive application under *Mullins v St Joseph Mercy Hosp*, ___ Mich App ___; ___ NW2d ___ (2006) (Docket No. 263210, issued July 11, 2006), and requires the holding that plaintiff's suit was not timely. However, I respectfully dissent from the result reached because I would remand this matter to the trial court for a determination whether the doctrine of equitable tolling applies on the facts of this case. *Mazumder v Univ of Michigan Bd of Regents*, 270 Mich App 42; 715 NW2d 96 (2006).

/s/ Janet T. Neff