

# Order

Michigan Supreme Court  
Lansing, Michigan

April 30, 2008

Clifford W. Taylor,  
Chief Justice

133717

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

ERIC KORPAL and MARY KORPAL,  
Plaintiffs-Appellants,

v

SC: 133717  
COA: 266418  
Saginaw CC: 03-049832-NH

SAMUEL J. SHAHEEN, M.D., MIDWESTERN  
SURGICAL ASSOCIATES, P.C., and  
COVENANT HEALTHCARE,  
Defendants,

and

STEPHEN A. MESSANA, D.O., SCOTT  
CHENEY, M.D., and ADVANCED  
DIAGNOSTIC IMAGING, P.C.,  
Defendants-Appellees.

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On order of the Court, the application for leave to appeal the December 28, 2006 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

CAVANAGH, WEAVER, and KELLY, JJ., would reverse the portion of the judgment of the Court of Appeals that dismissed the plaintiffs' additional claims regarding the chest x-rays *with* prejudice, because the dismissal should have been *without* prejudice. See *Kirkaldy v Rim*, 478 Mich 581 (2007). They would remand this case to the trial court for entry of an order dismissing the plaintiffs' additional claims without prejudice.



10423

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.

April 30, 2008

*Corbin R. Davis*

Clerk