

Court of Appeals, State of Michigan

ORDER

THOMAS SCODELLER V WILLIAM BEAUMONT HOSPITAL

Docket No. 315550

LC No. 2011-122858-NH

Deborah A. Servitto
Presiding Judge

E. Thomas Fitzgerald

Henry William Saad
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), the Court orders that the Oakland circuit Court's circuit court's March 14, 2013 opinion and order denying defendants' renewed motion to compel blood disorder and genetic testing of the minor plaintiff is REVERSED. By suing defendants for medical malpractice plaintiff placed his physical condition and the cause of that condition in controversy. Defendant presented affidavits from expert physicians who concluded that plaintiff's brain damage was caused by a genetic or congenital blood condition rather than oxygen deprivation or trauma during birth. The discovery sought is highly relevant to the ultimate issue in the action. The circuit court clearly erred by finding that defendants failed to show good cause under MCR 2.311(A) and abused its discretion by denying defendants' motion for blood testing. *Schlagenhauf v Holder*, 379 US 104, 119; 85 S Ct 234; 13 L Ed2d 152 (1964); *LeGendre v Monroe Co*, 234 Mich App 708, 723-724; 608 NW2d 78 (1999). Plaintiff must submit to a blood sample for testing in accordance with the affidavits from defendants' expert physicians Steven Pavlakis MD and Eric Grabowski, MD. This order is to have immediate effect. MCR 7.215(F)(2).

Defendants' motion for stay is DENIED as moot.

This Court retains no further jurisdiction.



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

MAY 03 2013

Date


Chief Clerk