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STATE OF MICHIGAN
IN THE SUPREME COURT

KERAN ERNEST, Personal Representative of the ESTATE OF MAURICE ERNEST,

Plaintiff-Appellant,

v

PAUL W. BROWN, JR., M.D., ELMAHDI M. SAEED, M.D., CYPRESS CARDIOLOGY, PLLC, McLAREN HEALTH CARE CORPORATION,

Defendants-Appellees,

And,

DR. FAROUK M. BELAL,

Defendant.

Case No. 168462
COA Case No. 368566

Genesee County Circuit
No. 23-119425-NH
Hon. Celeste Bell

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APPENDIX OF EXHIBITS TO DEFENDANTS-APPELLEES McLAREN HEALTH CARE CORPORATION AND PAUL W. BROWN, JR., M.D.'S SUPPLEMENTAL BRIEF

EXHIBIT	DESCRIPTION
A	March 20, 2025 Court of Appeals Opinion
B	June 7, 2021 Letters of Authority for Personal Representative
C	February 10, 2023 Notice of Intent

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EXHIBIT A

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

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STATE OF MICHIGAN

COURT OF APPEALS

KERAN ERNEST, Personal Representative of the ESTATE OF MAURICE ERNEST,

Plaintiff-Appellant,

v

PAUL W. BROWN, JR., M.D., ELMAHDI M. SAEED, CYPRESS CARDIOLOGY PLLC, and MCLAREN HEALTH CARE CORPORATION,

Defendants-Appellees,

and

DR. FAROUK M. BELAL,

Defendant.

UNPUBLISHED
March 20, 2025
11:19 AM

No. 368566
Genesee Circuit Court
LC No. 2023-119425-NH

Before: CAMERON, P.J., and GARRETT and MARIANI, JJ.

PER CURIAM.

In this action for wrongful death arising out of medical malpractice, plaintiff appeals as of right the trial court's order granting summary disposition under MCR 2.116(C)(7) (statute of limitations) to defendants because plaintiff's claims were untimely. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff's decedent presented to the emergency room on July 16, 2020, complaining of chest pain. After being examined in the emergency room, decedent was moved to the cardiac unit for observation. He died the next day. Relevant to this appeal, on June 7, 2021, the Genesee County Probate Court issued letters of authority appointing Keran Ernest as the personal representative of decedent's estate. Plaintiff sent its notice of intent to defendants on February 10, 2023, and filed suit on August 14, 2023. Defendants moved for summary disposition under

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MCR 2.116(C)(7) (statute of limitations), arguing that plaintiff's complaint was time-barred. The trial court granted the motions and dismissed the case. Plaintiff now appeals.

II. STANDARD OF REVIEW

"This Court reviews de novo both the applicability of a statute of limitations and the trial court's ruling on a motion for summary disposition." *Dep't of Environmental Quality v Gomez*, 318 Mich App 1, 21; 896 NW2d 39 (2016) (citations omitted). "Summary disposition under MCR 2.116(C)(7) is appropriate when the undisputed facts establish that the plaintiff's claim is barred under the applicable statute of limitations." *Dep't of Environmental Quality*, 318 Mich App at 21 (quotation marks and citation omitted). "Generally, the burden is on the defendant who relies on a statute of limitations defense to prove facts that bring the case within the statute." *Id.* (quotation marks and citation omitted).

> When reviewing a motion under MCR 2.116(C)(7), this Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them. If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Dep't of Environmental Quality*, 318 Mich App at 21 (quotation marks and citation omitted).]

III. ANALYSIS

The question in this appeal involves the application of three statutes: (1) the statute of limitations for medical malpractice claims, MCL 600.5805(8), (2) the wrongful death savings provision (the "savings provision"), MCL 600.5852, and (3) the notice-tolling provision, MCL 600.5856(c).

Generally, medical malpractice actions are subject to a two-year statute of limitations from the time the claim accrues. MCL 600.5805(8). A claim for medical malpractice accrues "at the time of the act or omission that is the basis for the claim[.]" MCL 600.5838a(1). A plaintiff alleging medical malpractice must give the defendant-provider written notice at least 182 days before filing suit. MCL 600.2912b(1). "At the time notice is given in compliance with the applicable notice period[,]" if the statute of limitations would have expired before the 182-day period elapsed, the limitations period "is tolled not longer than the number of days equal to the number of days remaining in the applicable notice period after the date notice is given." MCL 600.5856(c). In this case, plaintiff's claim accrued when decedent allegedly received negligent medical care on July 16, 2020. Had plaintiff provided its notice of intent within two years of this date, the limitations period for bringing the claim under MCL 600.5805(8) would have been tolled, but plaintiff did not do so. Thus, when considered solely in the context of the original statute of limitations, plaintiff's claim expired on July 16, 2022, and its August 14, 2023 complaint was untimely.

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However, the savings provision provided plaintiff with additional time in which to file suit. Relevant to this appeal, MCL 600.5852 states:

> (1) If a person dies before the period of limitations has run or within 30 days after the period of limitations has run, an action that survives by law may be commenced by the personal representative of the deceased person at any time within 2 years after letters of authority are issued although the period of limitations has run.
>
> (2) If the action that survives by law is an action alleging medical malpractice, the 2-year period under subsection (1) runs from the date letters of authority are issued to the first personal representative of an estate. Except as provided in subsection (3), the issuance of subsequent letters of authority does not enlarge the time within which the action may be commenced.
>
> * * *
>
> (4) Notwithstanding subsections (1) to (3), an action shall not be commenced under this section later than 3 years after the period of limitations has run. [MCL 600.5852(1), (2), and (4).]

Plaintiff's letters of authority were issued on June 7, 2021. Thus, under MCL 600.5852, plaintiff had until June 7, 2023 to file suit, even though the original statute of limitations had already expired. Again, plaintiff did not file its complaint until August 14, 2023. So, plaintiff's complaint was still untimely even when the savings provision is considered.

Plaintiff argues that the notice of intent it provided on February 10, 2023 tolled the period in which it could file suit under the savings provision. According to plaintiff, the notice tolling provision applies to the savings provision, rendering its suit timely. Plaintiff's claim fails because, in *Waltz v Wyse*, 469 Mich 642; 677 NW2d 813 (2004), our Supreme Court expressly rejected the application of the tolling provision in MCL 600.5856 to the savings provision in MCL 600.5852.

Plaintiff acknowledges that its argument is contrary to our Supreme Court's holding in *Waltz*, but asserts *Waltz*'s holding is contrary to the Legislature's intent. In its effort to side step *Waltz*'s holding, plaintiff spins two earlier cases from our Supreme Court to support its claim that the tolling provision in MCL 600.5856(c) applies to the savings provision: *Hardy v Maxheimer*, 429 Mich 422; 416 NW2d 299 (1987), and *Omelenchuk v Warren*, 461 Mich 567; 609 NW2d 177 (2000), overruled by *Waltz*, 469 Mich at 642. Plaintiff argues that *Hardy* remains good law because it was not expressly overruled by *Waltz*, and urges this Court to "apply the unambiguous language" of *Omelenchuk* despite it having been overruled by *Waltz*.

In *Waltz*, our Supreme Court held that MCL 600.5856 does not toll the time frame provided in MCL 600.5852. *Waltz*, 469 Mich at 650-651. It reasoned that MCL 600.5856 applies to a "period of limitations[,]" and MCL 600.5852 "clearly provides that it is an *exception* to the limitation period," not a limitation period itself. *Waltz*, 469 Mich at 651. Thus, while MCL 600.5856 may serve to toll the two-year statute of limitations for the underlying medical-malpractice claim, it does not toll the two-year *exception* to the statute of limitations under MCL 600.5852.

Because *Waltz* is binding on this Court, we lack the authority to consider plaintiff's argument regarding legislative intent. See *Assoc Builders & Contractors v Lansing*, 499 Mich 177, 191; 880 NW2d 765 (2016) ("The Court of Appeals is bound to follow decisions by [our Supreme] Court except where those decisions have clearly been overruled or superseded") (emphasis omitted). As for plaintiff's argument regarding *Hardy* and *Omelenchuk*, *Waltz* explicitly overruled *Omelenchuk*, see *id*., and *Hardy* predates *Waltz*, meaning we must follow *Waltz*, see *Washington Mut Bank, FA v ShoreBank Corp*, 267 Mich App 111, 119; 03 NW2d 486 (2005) (explaining that this Court is "obligated to follow the most recent pronouncement of the Supreme Court on a principle of law.").

Affirmed.

/s/ Thomas C. Cameron
/s/ Kristina Robinson Garrett
/s/ Philip P. Mariani

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EXHIBIT B

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Approved, SCAO

STATE OF MICHIGAN PROBATE COURT COUNTY OF GENESEE	LETTERS OF AUTHORITY FOR PERSONAL REPRESENTATIVE	20212175606E

Estate of Maurice Ernest, deceased

TO:

Name and address	Telephone no.
Keran Ernest 3292 Jacque St. Flint, MI 48532	(810) 908-0582

You have been appointed and qualified as personal representative of the estate on 6-7-2021
Date

You are authorized to perform all acts authorized by law unless exceptions are specified below.

[ ] Your authority is limited in the following way:

[ ] You have no authority over the estate's real estate or ownership interests in a business entity that you identified on your acceptance of appointment.

[ ] Other restrictions or limitations are:

[ ] These letters expire: _____
Date

6-7-2021
Date

Nicole Johnson
~~Judge (formal proceedings)~~/Register (informal proceedings) Bar no.

SEE NOTICE OF DUTIES ON SECOND PAGE

CF Legal, PC
Craig R. Fiederlein P55842
Attorney name (type or print) Bar no.
302 E. Court St.
Address
Flint, MI 48502 (810) 232-1112
City, state, zip Telephone no.

I certify that I have compared this copy with the original on file and that it is a correct copy of the original, and on this date, these letters are in full force and effect.

6-7-2021
Date

Nicole Johnson
Deputy Register

Do not write below this line - For court use only

FILED
JUN 07 2021
GENESEE COUNTY
PROBATE COURT

MCL 700.3103, MCL 700.3307, MCL 700.3414, MCL 700.3504, MCR 7.001, MCR 5.202, MCR 5.206, MCR 5.307, MCR 5.310

PC 572 (2/13) LETTERS OF AUTHORITY FOR PERSONAL REPRESENTATIVE

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EXHIBIT C

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ATTORNEYS AT LAW

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February 10, 2023

Sent via USPS First Class Mail and USPS Certified Mail Delivery

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McLaren Health Care Corporation
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Flint, MI 48532-3685

Dr. Paul W. Brown Jr.
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Lake Orion, MI 48359-1747

Cypress Cardiology PLLC
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Elmahdi M. Saeed
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Grand Blanc, MI 48439-7439

Cypress Cardiology PLLC
Attn: Farouk Belal
1471 S. Elms Road
Flint, MI 48532

Dr. Farouk M. Belal
6085 Westknoll Drive #403
Grand Blanc, MI 48439

RE: Estate of Maurice Ernest (DOB 4/29/1966/DOD 7/17/2020)

Dear Addressees:

You are hereby notified that the Estate of Maurice Ernest intends to file suit against you upon the expiration of 182 days from the above date. This notice is being provided pursuant to MCL 600.2912b (2) and (4). That same statute, under subsection (5) and (7), places certain obligations upon each of you as well. You are required to provide the undersigned with access to all of Maurice Ernest's medical records and images that are in your control; or, in the alternative, you are permitted to provide a copy of his medical records and images to the undersigned. Access to those records must be provided within 56 days after your receipt of this notice. The term

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"medical records" includes but is not limited to billing and payment records, any diagnostic test results, diagnostic imaging, any consultation reports, any photographs, any records that reflect contacts with Maurice Ernest or with a member of her family, prescription forms, and clinical notes. A formal request is accordingly hereby made for those records. Please produce all images in DICOM format.

Second, you are required to provide a notice of meritorious defense pursuant to MCL 600.2912b (7) within 154 days from the above date. If either of the above requirements is not met in a timely manner, the undersigned will seek appropriate sanctions from the court once this matter has been filed in Genesee County Circuit Court.

As stated above, MCL 600.2912b (5) specifically provides that "within 56 days…the health professional or health facility shall allow the claimant access to all medical records related to the claim that are in the control of the health professional or health facility." In addition, MCL 600.2912f specifically provides, "A person who has given notice under section 2912b…waives for purposes of that claim…the privilege created by section 2157 and any other similar privilege created by law with respect to a person or entity who was involved in the acts, transactions, events or occurrences that are the basis for the claim…or who provided care or treatment to the claimant…in the claim…for that condition or a condition related to the claim…either before or after those acts, transactions, events or occurrences, whether or not the person is a party to the claim…".

The Michigan legislature has defined the term "Medical Record" in MCL 333.26263 (i) as follows: "Medical record means information oral or recorded in any form or medium that pertains to a patient's health care, medical history, diagnosis, prognosis, or medical condition and that is maintained by a health care provider or health facility in the process of caring for the plaintiff's

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health". That definition certainly includes billing and payment information and images obtained during diagnostic testing, in addition to the records that would normally be maintained by the health professional or health facility. The HIPAA regulations also include billing and payment information in their definition of protected health information. The Michigan Supreme Court recently held that billing and payment records are part of a patient's medical records and must be produced by the health care professional pursuant to MCL 600.2912b (5).

In addition, MCL 333.26263 (a) defines an "Authorized Representative" as follows: "A person empowered by the patient by explicit written authorization to act on the patient's behalf to access, disclose, or consent to the disclosure of the patient's medical record, in accordance with this act". MCL 333.26265 (1) provides that, "a patient or his or her authorized representative has the right to examine or obtain the patient's medical record. Obviously, since I am the patient's attorney, those provisions permit me to request the patient's medical record, which I formally requested above. If for any reason you do not believe that I have been retained by the claimant, please contact the undersigned; a copy of the designation of representative form will be provided.

Recognizing that the Michigan Supreme Court has held that the most restrictive provisions of Michigan law or federal law control the release of medical records, it is appropriate to look at the HIPAA regulations regarding the release of medical records. 45 CFR 164.512 details the situations under which a health professional or health facility may disclose protected health information without a written authorization from the individual. Section 164.512 (a) provides: "A covered entity may use or disclose protected health information to the extent that *such use or disclosure is required by law and the use of the disclosure complies with and is limited to the relevant requirements of such law*". In addition, the HIPPA law clearly indicates that a covered entity *must* disclose protected health information to individuals when they request access. In the

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instant situation, MCL 600.2912b (5) requires that the health professional and the health facility provide the claimant's medical records within 56 days from when they receive this notice of intent; therefore, the requested medical records can, under federal law, be provided without an authorization from the patient if they are being provided pursuant to MCL 600.2912b (5). The same regulation under subpart (e) clearly states that "A covered entity may disclose protected health information in the course of any judicial or administrative proceeding". There can be no question that a notice of intent filed pursuant to MCL 600.2912b (4) constitutes the initial step in the judicial process required to maintain an action against a health professional or health facility. Anticipating that some might argue that a notice of intent filed under MCL 600.2912b (4) is not a court order as provided under subpart (e) (i), your attention should be directed to subpart (e) (ii) (A) which states: "In response to a legal subpoena, discovery request, *or other lawful process*, that is not accompanied by an order of a court or administrative tribunal, if: "The covered entity receives satisfactory assurance, as described in paragraph (e) (1) (iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is subject of the protected health information that has been requested has been given notice of the request". It should appear to any reasonable person that the claimant is aware that the undersigned is requesting his medical records in connection with this legally mandated Notice of Intent.

Given the time constraints imposed upon the undersigned to fully investigate this claim, a formal demand is made for the timely production of the medical records requested above. If the records are not provided in a timely manner, the undersigned may initiate a separate action for the production of those records with a request for sanctions for your failure to provide those records in a timely manner. Given the above authority, it is hoped that the records will be produced as soon

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as possible. The earlier the records are produced, the earlier a determination can be made regarding whether or not there is merit to these claims. Thus, everyone will be served by a prompt production of the subject documents.

Please also take notice that this claim will be filed as both a medical malpractice claim pursuant to MCL 600.2912 et. seq. and a wrongful death claim pursuant to MCL 600.2922.

Factual Basis of Claim

On July 16, 2020 Mr. Ernest, age 54, presented to the emergency department at McLaren Regional Medical Center in Flint, Michigan (hereinafter "McLaren" complaining of chest pain at 10:53. Mr. Ernest relayed that the onset of chest pain started two days prior and was abrupt, constant, and rated the pain as a six on a scale of one to ten. He noted the quality was heaviness and tightness without modifying factors. Mr. Ernest was noted to have obesity and hypertension and suffering with diaphoresis. He was taking metoprolol, a beta blocker that can mask an elevated heart rate, which is a warning sign for pulmonary embolism. He was seen in the emergency room by Dr. Paul W. Brown (hereinafter "Dr. Brown") and discharged from emergency to the cardiac unit for observation at 06:54, with Dr. Elmahdi M. Saeed (hereinafter "Dr. Saeed" attending. A single x-ray was ordered with findings on July 16, 2020 at 10:06 pm of enlarged heart, mild interstitial prominence of lungs, minimal perihilar/basilar opacities and an impression of mild congestion/edema; conditions that can be signs of pulmonary embolism. EKG was within normal limits according to the chart, and potassium was abnormal at 3.2. WBC was 11.8. Blood pressure was 170/89, and pulse was 59 on July 17, 2020 at 11:00. A consultation was placed for cardiology. Mr. Ernest was seen by Dr. Farouk M. Belal (hereinafter "Dr. Belal") who noted his provisional diagnosis was acute coronary syndrome and hypokalemia. Sinus brady cardia noted at 7/17/20 at 01:44. At no time was D-dimer tested. At no time was CT PE or ventilation-perfusion scan

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ordered. The chart does not mention shortness of breath generally, which Mr. Ernest was suffering from and complained about. The chart reflects only two vitals. On July 17, 2020 at 1357, while in the observation unit, Mr. Ernest died. Independent autopsy conducted at the Michigan Institute of Forensic Science & Medicine confirmed cause of death as bilateral pulmonary embolism an noted fresh and organizing emboli in pulmonary arteries and branches, pulmonary infarcts and pulmonary edema.

Standard of Care

The applicable standard of care required McLaren[1] to use reasonable care in hiring and/or credentialling, retaining and supervising physicians and to refrain from hiring and/or credentialling or retaining physicians who demonstrate a foreseeable threat of injury to patients.

The applicable standard of care required McLaren to follow the Joint Commission (JC) Accreditation Standard RC.01.01.01: maintain complete and accurate medical records for each individual patient.

The applicable standard of care for Drs. Brown, Saeed and Belal required that PERC protocol or Wells' criteria be utilized to rule out pulmonary embolism. Given Mr. Ernest's age of 54, utilization of PERC protocol would have indicated that pulmonary embolism must be part of Mr. Ernest's differential diagnosis. Given that Mr. Ernest exhibited clinical signs that pulmonary embolism was an equally likely diagnosis to heart attack, use of the Wells' criteria would have placed Mr. Ernest in the moderate range to suffer incidence of pulmonary embolism.

[1] This statement is made specifically as it relates to Dr. Farouk Belal, but will be pled as to other Defendants if it is later discovered to be applicable to them.

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The applicable standard of care for Drs. Brown, Saeed and Belal required that an order for D-dimer testing be placed for Mr. Ernest where pulmonary embolism was not ruled out and should have been part of the differential diagnosis.

The applicable standard of care for Drs. Brown, Saeed and Belal required that an order for CT PE or ventilation-perfusion scan be placed where pulmonary embolism was not ruled out and should have been part of the differential diagnosis and where Mr. Ernest's presentation was as noted in the 'Factual Basis' section above.

The applicable standard of care for Drs. Brown, Saeed and Belal required that they review Mr. Ernest's vitals to the extent that it could be easily noticed that vitals were not being taken every four hours; and issue orders to correct same.

The applicable standard of care for Dr. Belal required that he timely and accurately review the EKG and, when making diagnoses issue orders commensurate with the diagnosis made.

Breach of the Standard of Care

McLaren breached the applicable standard of care when it failed to use reasonable care in hiring and/or credentialling, retaining and supervising physicians and to did not refrain from hiring and/or credentialling or retaining physicians who demonstrate a foreseeable threat of injury to patients.

McLaren breached the applicable standard of care when it failed to follow the Joint Commission (JC) Accreditation Standard RC.01.01.01: maintain complete and accurate medical records for each individual patient.

Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to utilize PERC protocol or Wells' criteria to rule out pulmonary embolism.

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Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to order D-dimer testing for Mr. Ernest where pulmonary embolism was not ruled out and should have been part of the differential diagnosis.

Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to order CT PE or ventilation-perfusion scan be placed where pulmonary embolism was not ruled out and should have been part of the differential diagnosis and where Mr. Ernest's presentation was as noted in the 'Factual Basis' section above.

Drs. Brown, Saeed and Belal breached the applicable standard of care when they did not review Mr. Ernest's and take notice that vitals were not being taken every four hours; and issue orders to correct same.

Dr. Belal breached the applicable standard of care when he failed to timely and accurately review the EKG and, when making diagnoses, failed to issue orders commensurate with the diagnosis made.

Action that Should Have Been Taken to Achieve Compliance with the Standard of Care

To comply with the applicable standard of care McLaren should have used reasonable care in hiring and/or credentialling, retaining and supervising physicians and should have refrained from hiring and/or credentialling or retaining physicians who demonstrate a foreseeable threat of injury to patients.

To comply with the applicable standard of care McLaren should have followed the Joint Commission (JC) Accreditation Standard RC.01.01.01: maintain complete and accurate medical records for each individual patient.

To comply with the applicable standard of care, Drs. Brown, Saeed and Belal should have utilized the PERC protocol or Wells' criteria to rule out pulmonary embolism.

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To comply with the applicable standard of care, Drs. Brown, Saeed and Belal should have ordered testing for D-dimer where pulmonary embolism was not ruled out and should have been part of the differential diagnosis.

To comply with the applicable standard of care, Drs. Brown, Saeed and Belal should have ordered CT PE or ventilation-perfusion scan be placed where pulmonary embolism was not ruled out and should have been part of the differential diagnosis and where Mr. Ernest's presentation was as noted in the 'Factual Basis' section above.

To comply with the applicable standard of care, Drs. Brown, Saeed and Belal should have reviewed Mr. Ernest's vitals to the extent that it could be easily noticed that vitals were not being taken every four hours; and issue orders to correct same.

To comply with the applicable standard of care, Dr. Belal should have timely and accurately review the EKG and, when making diagnoses issue orders commensurate with the diagnosis.

The Manner in Which the Breach was the Proximate Cause of the Claimed Injury

Because McLaren breached the applicable standard of care when it failed to use reasonable care in hiring and/or credentialling, retaining and supervising physicians and to did not refrain from hiring and/or credentialling or retaining physicians who demonstrate a foreseeable threat of injury to patients, it provided employment or privileges to Dr. Belal, who has an extensive disciplinary record that foretold the likelihood that patients such as Mr. Ernest would suffer neglect or injury in his care, and Mr. Ernest in fact did suffer neglect and injury in Dr. Belal's care at McLaren.

Because McLaren breached the applicable standard of care when it failed follow the Joint Commission (JC) Accreditation Standard RC.01.01.01: maintain complete and accurate medical

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records for each individual patient, Mr. Ernest's vitals and the flowchart that should have documented his care at McLaren are non-existent and thusly it can only be concluded that such care did not occur. Not taking vitals and not flow-charting care deprived Mr. Ernest's care providers of critical information that would have reflected Mr. Ernest's risk for pulmonary embolism – the untreated condition that in fact caused Mr. Ernest's death.

Because Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to utilize PERC protocol or Wells' criteria to rule out pulmonary embolism, pulmonary embolism was not addressed at all, and Mr. Ernest in fact died due to pulmonary embolism.

Because Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to order D-dimer testing for Mr. Ernest where pulmonary embolism was not ruled out and should have been part of the differential diagnosis, pulmonary embolism was not detected and treated, and Mr. Ernest in fact died due to same.

Because Drs. Brown, Saeed and Belal breached the applicable standard of care when they failed to order CT PE or ventilation-perfusion scan be placed where pulmonary embolism was not ruled out and should have been part of the differential diagnosis and where Mr. Ernest's presentation was as noted in the 'Factual Basis' section above, pulmonary embolism was not detected and treated, and Mr. Ernest in fact died due to same.

Because Drs. Brown, Saeed and Belal breached the applicable standard of care when they did not review Mr. Ernest's and take notice that vitals were not being taken every four hours; and issue orders to correct same, vitals that would have provided more warning signs for pulmonary embolism did not exist, and pulmonary embolism was not detected and treated, and Mr. Ernest in fact died due to same.

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Because Dr. Belal breached the applicable standard of care when he failed to timely and accurately review the EKG and, when making diagnoses, and failed to issue orders commensurate with the diagnosis made, pulmonary embolism was not detected and treated, and Mr. Ernest in fact died due to same.

Statement of Vicarious and Institutional Liability

Please take notice that The Estate of Maurice Ernest intends to hold McLaren and any related Corporation directly liable for the negligence of Drs. Brown, Saeed and Belal as well as that of any other medical professional or other agent that was negligent as set forth in this notice pursuant to the doctrines of actual agency, apparent agency, ostensible agency, and joint venture or joint enterprise liability, as well as pursuant to MCL 333.21513(a).

Name of Health Professionals, Entities and Facilities Notified:

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McLaren Health Care Corporation
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Flint, MI 48532-3685

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OLIVER LAW GROUP P.C.

Date: February 10, 2023

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