RECEIVED by MSC 10/11/2024 11:40:43 AM

STATE OF MICHIGAN
IN THE SUPREME COURT

In re ESTATE OF JEROME E. SIZICK.

JULIE K. GRIES, Personal Representative of the ESTATE OF JEROME E. SIZICK,

Petitioner-Appellant,

v

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Respondent-Appellee.
/

Supreme Court No. 166921

Court of Appeals No. 364321

Saginaw County Probate Court
No. 21-141789-PO

APPELLANT'S BRIEF IN SUPPORT OF

MICHIGAN SUPREME COURT'S JURISDICTION

Dated: October 11, 2024

Submitted By: Norman Harrison (P39814)
Attorney for Appellant
805 South Michigan Avenue
Saginaw, MI 48602
(989)790-7177

RECEIVED by MSC 10/11/2024 11:40:43 AM

TABLE OF CONTENTS

INDEX OF AUTHORITIES ii

PROCEDURAL HISTORY iii

STATEMENT OF QUESTION PRESENTED iv

STATEMENT OF FACTS AND PROCEEDINGS 1

ARGUMENT 5

Mootness 5

I. There is a case and controversy between the parties 5

II. Alternatively, the issues in this case hold public significance which will likely reoccur yet evade judicial review 6

RELIEF 7

APPENDIX 1—Saginaw County Probate Ct. Register's Statement for Estate of Jerome E. Sizick.....

APPENDIX 2—St. Francis Nursing Home Statement and Proof of Claim.....

APPENDIX 3—Summons and Complaint in St. Francis Home of Saginaw vs. Jerome Sizick, Saginaw Couty Circuit Ct. .....

RECEIVED by MSC 10/11/2024 11:40:43 AM

INDEX OF AUTHORITIES

Cases

Michigan

Anway v Grand Rapids RR Co., 211 Mich 592 (1920) 5

Colombiani v Department of Social Services, 93 Mich App 157 (1979) 5

Federated Publications, Inc. v City of Lansing, 467 Mich 98 (2002) 5

In Re Estate of Schroeder, 335 Mich App 371 (2020) 2, 3

In Re Estate of Jerome E. Sizick, (Sizick I) unpublished opinion of Michigan Court of Appeals, May 26, 2022, Docket No.: 357785 2

In Re Estate of Jerome E. Sizick, (Sizick II), unpublished opinion of Michigan Court of Appeals, January 18, 2024, Docket No.: 364321 ..... iii, 3, 6

In re Midland Publishing Co., 420 Mich 148 (1984) 5

In Re Vansach Estate, 324 Mich App 371 (2018) 3

Statutes

Michigan

MCL 700.5407-700.5408 1

MCL 700.5401(3)(a) 2

MCL 700.5401(3)(b) 2, 3, 5, 7

MCL 700.5407 1

MCL 700.5408 ..... 1, 2

Michigan Court Rules

MCR 2.202(A) 4

RECEIVED by MSC 10/11/2024 11:40:43 AM

PROCEDURAL HISTORY

This Court has jurisdiction to grant an application for leave to appeal a decision of the Court of Appeals MCR 7.305. The Court of Appeals in the case of In re Estate of Jerome E. Sizick, (Sizick II) Docket No. 364321 (unpublished) issued a decision on January 18, 2024. Appellant Sizick filed a Motion for Reconsideration with the Court of Appeals on February 8, 2024. The Motion was denied by the Court of Appeals on February 28, 2024.

On April 10, 2024, Appellant filed an application for leave to appeal to the Michigan Supreme Court. On May 8, 2024, Appellee filed a brief in opposition to the application for leave to appeal. On May 29, 2024, Appellant filed a reply to Appellee's response.

On May 29, 2024, Appellant filed a motion for substitution of the Appellant pursuant to MCR 2.202(A). On June 5, 2024, the Court granted Appellant's motion to substitute Julie K. Gries, Personal Representative of the Estate of Jerome E. Sizick as the name Petitioner-Appellant. On September 13, 2024, the Court issued an Order directing the parties to file supplemental briefs, within 28 days, addressing whether this appeal has been rendered moot as a result of the death of Jerome E. Sizick.

RECEIVED by MSC 10/11/2024 11:40:43 AM

STATEMENT OF QUESTION PRESENTED

1. Is the case of Julie K. Gries, Personal Representative of the Estate of Jerome E. Sizick vs. Michigan Dept. of Health & Human Services moot?

   Petitioner-Appellant says: No.

RECEIVED by MSC 10/11/2024 11:40:43 AM

STATEMENT OF FACTS AND PROCEEDINGS

SIZICK

Jerome and Janet Sizick, a married couple of over 60 years, both were hospitalized on March 5, 2021. Jerome, who was 81 at the time, had multiple health problems. His most significant problem was dementia. Both remained in the hospital for 8 days before being discharged to a nursing home. Jerome would suffer additional medical setbacks including a heart attack and a stroke before ultimately being discharged to St. Francis Nursing Home on April 26, 2021. He would remain in this nursing home the remainder of his life. Janet would rehab at the nursing home for 3 weeks. After some significant renovations were made to her home, Janet returned home although she needed on-going home healthcare and support so she could live independently.

PROBATE PETITION/MEDICAID

In mid-May, 2021, insurance coverage to pay for Jerome's nursing home care ended resulting in the Sizick family having to privately pay for his nursing home care. Janet filed a Petition for a Protective Order under MCL 700.5407 and 700.5408. Prior to the hearing, Janet started the process of applying for husband's Medicaid by submitting an Initial Assessment to the Saginaw County Department of Health & Human Services (DHS). The following day, DHS issued an initial asset assessment determining the Sizicks' countable assets and Janet's protected spousal amount. Meanwhile, she submitted a Medicaid Application for her husband. At the time of the court hearing, DHS had not issued a determination on the Medicaid Application.

RECEIVED by MSC 10/11/2024 11:40:43 AM

On June 21, 2021, the Saginaw County Probate Court issued a Protective Order finding that Jerome Sizick, due to his impairments, was unable to manage his income and property. The court further found that Janet Sizick was a dependent spouse in need of money for support, care, and welfare. The court issued a Protective Order transferring Jerome Sizick's assets to his dependent spouse and providing her a monthly income from her husband.

Armed with the Protective Order, Janet Sizick was able to obtain additional documentation and complete the Medicaid Application. In compliance with federal law and DHS' own policy manual, DHS was required to implement the court order. Despite a specific policy mandate, the DHS caseworker was instructed not to process the Medicaid case because a determination would "**mess up our appeal...**". Accordingly, the caseworker never processed the Medicaid case leaving an outstanding bill owing to the nursing home.

SIZICK I

On May 26, 2022, the Michigan Court of Appeals issued its first unpublished decision in Sizick I (Docket No.: 364321) which affirmed the Probate Court's Order finding under MCL 700.5401(3)(a), vacating the finding under 700.5401(3)(b) and remanding to the trial court for further findings under subsection (b) to identify the property being transferred under MCL 700.5408. The Appellate Court "reluctantly agreed" that the Probate Court erred in making a determination of need in the absence of a final Medicaid determination as required by In Re Estate of Schroeder, 335 Mich App 107 (2020) although the court noted that "there is no cited authority for Schroeder's

RECEIVED by MSC 10/11/2024 11:40:43 AM

assertion that there must be a Medicaid determination regarding eligibility and patient-pay amounts".

MEDICAID DENIAL/PROBATE REMAND

On June 8, 2022, the DHS caseworker issued a Notice denying the Medicaid benefits after more than 261 days had elapsed since the application was submitted. In the end of August, 2022, the petitioner filed a Petition with the Probate Court to conduct an evidentiary hearing for purposes of amending the Protective Order in light of the Court of Appeals' decision to remand for further findings. The hearing would not be conducted until October 25, 2022. Extensive testimony and evidence was presented as to Janet Sizick's need for support. The Probate Court issued Amended Protective Orders on December 13, 2022. The Court reaffirmed its original order of June 21, 2021 by finding her a dependent spouse in need of support from her husband. The court again transferred all of Jerome's assets for her support and granted Janet a monthly income allowance.

SIZICK II

On January 18, 2023, the Michigan Court of Appeals issued the second unpublished decision in the Estate of Jerome E. Sizick (Docket No.: 364321). Citing to Schroeder, the Appellate Court concluded that because there was no Medicaid determination, the Probate Court failed to operate under the correct legal framework when addressing MCL 700.5401(3)(b). The Court further concluded that the Probate Court failed to comply with the standards of In re Vansach Estate, 324 Mich App 371 (2018) by failing to consider Jerome's needs and circumstances in reversing the Probate Court's decision.

RECEIVED by MSC 10/11/2024 11:40:43 AM

APPLICATION FOR LEAVE TO MSC/JEROME SIZICK'S DEATH

On April 10, 2024, Appellant Jerome Sizick filed his Application for Leave to Appeal to the Michigan Supreme Court. Unfortunately, Jerome Sizick died on April 21, 2024. On May 2, 2024, the Saginaw County Probate Court opened an informal decedent probate case. Estate of Jerome E. Sizick, deceased, Case No.: 24-145794-DE. Julie K. Gries, daughter of Jerome Sizick, was appointed Personal Representative of the Estate of Jerome E. Sizick. Appendix 1. Pursuant to MCR 2.202(A), Appellant requested that Julie K. Gries, in her capacity as Personal Representative of the Estate of Jerome E. Sizick, deceased, be substituted as the new party for the Application for Leave to Appeal to the Michigan Supreme Court. On June 5, 2024, this Court granted the Motion to substitute Julie K. Gries, Personal Representative of the Estate of Jerome E. Sizick, as the named petitioner-appellant.

CLAIMS FILED IN DECEDENT PROBATE CASE

On May 29, 2024, St. Francis Home of Saginaw (nursing home where Jerome Sizick was a patient resident for over 3 years) filed a Proof of Claim for $125,231.00 in the decedent probate case. Appendix 2. Previously, St. Francis Nursing Home of Saginaw sued Jerome Sizick for $167,331.00 for room and board in Saginaw County Circuit Court. St. Francis Home of Saginaw v Jerome E. Sizick, Saginaw County Circuit Court, Case No.: 23-000879-CK. Appendix 3.

RECEIVED by MSC 10/11/2024 11:40:43 AM

ARGUMENT

Mootness

The principal duty of this Court is to decide actual cases and controversies. Anway v Grand Rapids RR Co., 211 Mich 592, 610 (1920). There is no case or controversy once the matter has been resolved. "To that end, this Court does not reach moot questions or declare principals or rules of law that have no practical legal effect in the case before us unless the issue is one of public significance that is likely to recur, yet evade judicial review. Federated Publications, Inc. v City of Lansing, 467 Mich 98, 112-113 (2002); Also see In re Midland Publishing Co., 420 Mich 148, 152, n.2 (1984); Also see Colombiani v Department of Social Services, 93 Mich App 157, 161-62 (1979).

I. There is a case and controversy between the parties.

As attached to this brief, St. Francis Home of Saginaw filed a massive claim against the decedent probate estate of Jerome Sizick for $125,231.00. According to the claim, the nursing home asserts that it is owed room and board incurred by Jerome Sizick between April 26, 2021 until his date of death. If Appellee processed the Medicaid application and the protective orders issued June 21, 2021 and December 13, 2022, there would not be an outstanding obligation owed to St. Francis Home. The Court of Appeals has interpreted the part of the Estates and Protected Individuals Code (EPIC) governing protective orders to effectively block married couples in Michigan from obtaining a probate court order of spousal support to preserve a family's financial resources and facilitate a protected individual's eligibility for the Medicaid program. The court's restrictive interpretation of MCL 700.5401(3)(b) reflects a misunderstanding of how the Medicaid Program works in Michigan and is grounded on considerations not contained in EPIC nor in Michigan case

RECEIVED by MSC 10/11/2024 11:40:43 AM

law. The Court of Appeals also failed to understand the interplay between the protective order and the Medicaid application. Again, MDHHS, by and through its attorneys, instructed its staff at the local MDHHS office not to process the application because it would "mess up" the agency's appeal. MDHHS manipulated the facts that were presented in its appeal of the protective order. As the local Probate Court Judge noted in the December 13, 2022 Order,

> But for DHS own action not to process the Medicaid Application, Jerome Sizick would have been deemed eligible for Medicaid.

P4 of Order Granting Retroactive Application dtd 12/13/2022; Sizick II P7. Again, there would not be an outstanding obligation owed or a claim filed by the nursing home. Regardless, this is not a case of mootness since there is an actual case and controversy between the parties.

II. Alternatively, the issues in this case hold public significance which will likely reoccur yet evade judicial review.

The Sizicks are a typical Michigan married couple where one spouse needs nursing home care while the community spouse is in great need of spousal support for her care. The Sizicks are not millionaires. They were married for more than 60 years. He was an hourly employee of General Motors; and Janet, after caring for 4 children, worked until she was 62. They accumulated a small nest egg. The institutionalized spouse who becomes patient resident of nursing home have a strong tendency to ultimately die in the nursing home. The issues presented in the application involved significant legal principals effecting how local probate courts may provide support for protected individual's spouse while facilitating his qualification for Medicaid to pay for long-term care services. The Court of Appeals created a "Catch 22" by requiring a protected individual to qualify for Medicaid

RECEIVED by MSC 10/11/2024 11:40:43 AM

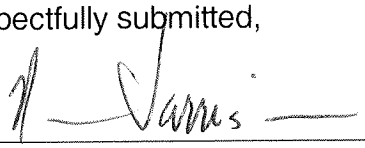
before a protective order for spousal support can be sought. This effectively nullifies the benefit of a protective order. The Court of Appeals' interpretation of EPIC governing protective orders is effectively blocking married couples, in Michigan, from obtaining a probate court order of spousal support to provide needed benefits for the dependent spouse. The court's restrictive interpretation of MCL 700.5401(3)(b) rests on a misunderstanding of how the Medicaid Program operates in Michigan and is not grounded on considerations contained in EPIC or Michigan case law. The roadblocks the Court of Appeals has imposed were augmented by a state agency administering the Medicaid Program who intentionally manipulated the facts that were presented in its appeal of the protective order by not timely processing Jerome Sizick's application for Medicaid as mandated by federal regulations and the agency's own policy. All MDHHS has to do is refuse to process a Medicaid application to show that the spousal support provisions of the protective order cause the protected individual's healthcare and living needs to be unmet. Essentially, the Appellate Court has effectively deprived all Michigan citizens of the benefits of the federal Medicaid law and state policies governing the use of protective orders to effect Medicaid eligibility. Under such circumstances, the case is not moot because it presents issues of public significance that will continue to reoccur yet evade judicial review unless the Michigan Supreme Court accepts this case for review.

RELIEF

For the reasons stated, Petitioner-Appellant respectfully requests that the Supreme Court find that this case is not moot; granting leave and peremptorily reversing the Court of Appeals' decisions issued on January 18, 2024 and May 26, 2022 by affirming the

protective orders issued by the Saginaw County Probate Court; or alternatively, granting further argument and/or briefing on the merits.

Respectfully submitted,



Norman Harrison (P39814)
Attorney for Petitioner-Appellant
805 South Michigan Avenue
Saginaw, MI 48602
(989)790-7177

CERTIFICATE OF COMPLIANCE

I hereby certify that the Appellant's Brief in Support of Michigan Supreme Court's Jurisdiction on behalf of Petitioner-Appellant contains 1,940 countable words according to the Microsoft Word 10 program.

Respectfully submitted,



Dated: October 11, 2024

Norman Harrison (P39814)
Attorney for Petitioner-Appellant
805 South Michigan Avenue
Saginaw, MI 48602
(989)790-7177

RECEIVED by MSC 10/11/2024 11:40:43 AM

RECEIVED by MSC 10/11/2024 11:40:43 AM

APPENDIX 1

RECEIVED by MSC 10/11/2024 11:40:43 AM

JIS Code: RIO

STATE OF MICHIGAN PROBATE COURT SAGINAW COUNTY	REGISTER'S STATEMENT	CASE NO. and JUDGE 24- 145794 -DE Judge Patrick J. McGraw (P34430)

Court address: 111 South Michigan Avenue, Saginaw, MI 48602

Court telephone no.: (989)790-5320

In the matter of ESTATE OF JEROME E. SIZICK, deceased

First, middle, and last name of decedent

1. An application has been filed requesting
   - [x] informal probate of the will of the above named decedent.
   - [x] the appointment of a personal representative.
   - [ ] the previously administered estate be reopened.
   - [ ] appointment of a successor personal representative.
2. Upon consideration of the application, I determine that all of the following are true:
   - a. Venue is proper.
   - b. The application is complete and made in accordance with MCL 700.3301 or MCR 5.312.
   - c. The applicant appears to be an interested person.
   - [x] d. An original, properly executed, and apparently unrevoked will dated 02/14/1989 with codicil(s) dated _____ is in my possession.
     - [ ] An authenticated copy of the will and codicil(s) probated in _____ County _____ is offered for informal proceedings and documents establishing probate in another state are in my possession.
   - e. The application is not within MCL 700.3304 or MCR 5.144.
   - [ ] f. A will to which the requested appointment relates has been formally or informally probated.
   - [x] g. [x] The person whose appointment is sought has priority to the appointment, with or without appropriate nomination and/or renunciation.
     - [ ] The applicant gave notice of his/her intention to seek an informal appointment to each person having a prior or equal right to an appointment not waived in writing and filed with the court.
   - [ ] h. There is a good cause to reopen the previously administered estate and appoint a personal representative. The estate was not closed under supervised administration.
3. [x] The will dated 02/14/1989 with codicils dated _____ is admitted to informal probate.
4. [ ] The authority of the prior personal representative has been terminated by death, resignation, or appointment of a conservator.
5. [x] Julie K. Gries is appointed
   - [x] personal representative [ ] special personal representative [ ] successor personal representative

   of the decedent's estate and upon filing a statement of acceptance, letters shall issue to that personal representative
   - [x] without bond. [ ] upon filing a bond in the the amount of $ _____ .

   After qualification, the personal representative shall comply with all relevant requirements under the law.
6. [ ] The application is denied because:
   - [ ] a personal representative has been appointed in this or another county of this state and continues to serve.
   - [ ] this or another will of the decedent has been the subject of a previous probate order.
   - [ ] the probate relates to one or more of a known series of testamentary instruments, the latest of which does not expressly revoke the earlier.
   - [ ] other: _____
7. [ ] The estate is reopened. [ ] Letters of authority expire _____ .

Azalia Ramirez MAY - 2 2024

Register signature and date

Norman Harrison (P39814)

Attorney name (type or print) Bar no.

805 South Michigan Avenue

Address

Saginaw, MI 48602

City, state, zip

(989)790-7177

Telephone no.

Approved, SCAO
Form PC 568, Rev. 12/22
MCL 700.3302, MCL 700.3303, MCL 700.3304, MCL 700.3305, MCL 700.3308, MCL 700.3601, MCL 700.3609, MCL 700.3610, MCR 5.309, MCR 5.312

RECEIVED by MSC 10/11/2024 11:40:43 AM

APPENDIX 2

Approved, SCAO

JIS CODE: SPC

STATE OF MICHIGAN SAGINAW PROBATE COUNTY OF SAGINAW	STATEMENT AND PROOF OF CLAIM	FILE NO. 23-145794-DE

Estate of JEROME E. SIZICK, DECEASED
First, middle, and last name

I, ST. FRANCIS HOME OF SAGINAW of 915 N. RIVER ROAD, SAGINAW, MICHIGAN 48609
Creditor's name Address
submit the following claim against the estate for the sum set forth.*

DESCRIPTION OF CLAIM	AMOUNT
PATIENT ROOM AND BOARD CHARGES [JULY, 2022 THRU JANUARY, 2024] (OUTSTANDING BALANCE DUE)	$125,231.00
There is now due on the claim, above all legal setoffs, the sum of:	$125,231.00

[ ] Notice to interested persons: This is a claim by a personal representative for an obligation that arose before the death of the decedent. Upon petition and notice to interested persons, a hearing will be held to determine whether to allow the claim. You may object to the claim before or at the hearing.

I declare under the penalties of perjury that this statement and proof of claim has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Attorney signature
BRAUN KENDRICK FINKBEINER P.L.C.
CRAIG W. HORN P34281
Name (type or print) Bar no.

4301 FASHION SQUARE BLVD.
Address

SAGINAW, MI 48603 (989) 498-2100
City, state, zip Telephone no.

MAY 29, 2024
Date

Claimant signature ST. FRANCIS HOME OF SAGINAW
By: Craig W. Horn, as Attorney for Claimant

915 N. RIVER ROAD
Address

SAGINAW, MI 48609 (989) 781-3150
City, state, zip Telephone no.

*1. Describe nature of claim or attach a statement. Attach copy of receipt or other evidence of payment if submitted by assignee.

2. Claims must be presented either personally or by mail to the fiduciary on or before the last day for presentment of claims. This claim may also be filed with the probate court (see reverse side for proof of service).

{S1834126.DOCX.1}

(SEE SECOND PAGE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

RECEIVED by MSC 10/11/2024 11:40:43 AM

RECEIVED by MSC 10/11/2024 11:40:43 AM

PROOF OF SERVICE

I served upon JULIE K. GRIES, C/O NORMAN HARRISON, 805 S. MICHIGAN AVENUE, SAGINAW, MICHIGAN 48602 and SAGINAW COUNTY PROBATE COURT
Name

fiduciary, a copy of this statement and proof of claim on MAY 29, 2024 by FIRST CLASS MAIL
Date State method and address of service

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

MAY 29, 2024
Date

Courtenay L. Bourdow
Signature COURTENAY L. BOURDOW

ACKNOWLEDGMENT OF SERVICE

Service of the attached statement and proof of claim is acknowledged.

Date

Signature

RECEIVED by MSC 10/11/2024 11:40:43 AM

FACILITY: ST FRANCIS HOME
RESIDENT: JEROME SIZICK-PRIVATE PAY CHARGES & PAYMENTS

DATE	Type of Charge	Private Pay Charges	Payment	Still Due
MAY 2021	PRIVATE PAY	$4,505.00	$4,505.00	$0.00
JUNE 2021	PRIVATE PAY	$7,950.00	$7,950.00	$0.00
JULY 2021	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
AUG 2021	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
SEPT 2021	PRIVATE PAY	$7,950.00	$7,950.00	$0.00
OCT 2021	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
NOV 2021	PRIVATE PAY	$7,950.00	$7,950.00	$0.00
DEC 2021	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
JAN 2022	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
FEB 2022	PRIVATE PAY	$7,420.00	$7,420.00	$0.00
MARCH 2022	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
APRIL 2022	PRIVATE PAY	$7,950.00	$7,950.00	$0.00
MAY 2022	PRIVATE PAY	$8,215.00	$8,215.00	$0.00
JUNE 2022	PRIVATE PAY	$7,950.00	$7,950.00	$0.00
JULY 2022	PRIVATE PAY	$8,215.00	$3,914.00	$4,301.00
AUG 2022	PRIVATE PAY	$8,215.00	$654.00	$7,561.00
SEPT 2022	PRIVATE PAY	$7,950.00	$654.00	$7,296.00
OCT 2022	PRIVATE PAY	$8,215.00	$654.00	$7,561.00
NOV 2022	PRIVATE PAY	$7,950.00	$654.00	$7,296.00
DEC 2022	PRIVATE PAY	$5,565.00	$654.00	$4,911.00
JAN 2023	PRIVATE PAY	$8,100.00	$820.00	$7,280.00
FEB 2023	PRIVATE PAY	$7,420.00	$820.00	$6,600.00
MARCH 2023	PRIVATE PAY	$8,215.00	$820.00	$7,395.00
APRIL 2023	PRIVATE PAY	$7,950.00	$820.00	$7,130.00
MAY 2023	PRIVATE PAY	$8,215.00	$820.00	$7,395.00
JUNE 2023	PRIVATE PAY	$7,950.00	$820.00	$7,130.00
JULY 2023	PRIVATE PAY	$8,215.00	$820.00	$7,395.00
AUG 2023	PRIVATE PAY	$7,950.00	$820.00	$7,130.00
SEPT 2023	PRIVATE PAY	$7,950.00	$820.00	$7,130.00
OCT 2023	PRIVATE PAY	$8,215.00	$820.00	$7,395.00
NOV 2023	PRIVATE PAY	$7,950.00	$820.00	$7,130.00
DEC 2023	PRIVATE PAY	$8,835.00	$2,212.00	$6,623.00
JAN 2024	PATIENT PAY SET BY MEDICAID ($1392)	$1,392.00	$820.00	$572.00
FEB 2024	PATIENT PAY SET BY MEDICAID ($1392)	$1,392.00	$1,392.00	$0.00
MARCH 2024	PATIENT PAY SET BY MEDICAID ($1392) / HOSPICE COVERAGE BY BCBS - EFF 3/12/2024	$1,392.00	$1,392.00	$0.00
APRIL 2024	HOSPICE COVERAGE BY BCBS - EXPIRED 4/21/2024	$0.00	$0.00	$0.00

OUTSTANDING BALANCE DUE	$125,231.00

RECEIVED by MSC 10/11/2024 11:40:43 AM

STATEMENT

St. Francis Home of Saginaw
915 N. River Rd
Saginaw, MI 48609-6831
(989) 781-3150

Resident: SIZICK, JEROME (2957)
Location: -
Statement Date: 6/1/2024

ALL TRANSACTIONS PROCESSED AFTER May 31, 2024
WILL APPEAR ON YOUR NEXT STATEMENT

Jackie Deshone
2121 Zeros Rd
Saginaw, MI 48601

Amount Due $125,231.00

PLEASE DETACH AND RETURN WITH YOUR PAYMENT Amount Enclosed $ _____

St. Francis Home of Saginaw
915 N. River Rd
Saginaw, MI 48609-6831
(989) 781-3150

Resident: SIZICK, JEROME (2957)
Location: -
Statement Date: 6/1/2024

Effective Date	Description	Units	Unit Amount	Amount
	BALANCE FORWARD			$125,231.00
	BALANCE DUE			$125,231.00

RECEIVED by MSC 10/11/2024 11:40:43 AM

APPENDIX 3

RECEIVED by MSC 10/11/2024 11:40:43 AM

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN 10th JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS	CASE NO. 23-000879 -CK

Court address
111 S. Michigan Ave., Saginaw, MI 48602

Court telephone no.
989-790-5470

Plaintiff's name(s), address(es), and telephone no(s).
ST. FRANCIS HOME OF SAGINAW,
domestic nonprofit corporation,
915 N. River Rd.
Saginaw, MI 48609 (989)372-1907

v

Defendant's name(s), address(es), and telephone no(s).
Jerome E. Sizick, by his
Agent under Durable Power of Attorney,
Janet E. Sizick
5535 Fort Road
Saginaw, MI 48601
and
915 N. River Rd.
Saginaw, MI 48609 (989)372-1907

Plaintiff's attorney, bar no., address, and telephone no.
William M. Azkoul (P40071) (616) 235-5500
GRUEL MILLS NIMS & PYLMAN, PLLC
99 Monroe Avenue, NW, Suite 800
Grand Rapids, MI 49503

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☒ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in ☐ this court, ☐ _____ Court, where it was given case number _____ and assigned to Judge _____

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk. **SUMMONS**

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date	Expiration date *	Court clerk
4-28-2023	7-28-2023	Vanessa Guerra

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

MC 01 (9/19) **SUMMONS**

MCR 1.109(D), MCR 2.102(B), MCR 2.103, MCR 2.104, MCR 2.105

Filed on 5/16/2023

RECEIVED by MSC 10/11/2024 11:40:43 AM

STATE OF MICHIGAN

IN THE SAGINAW COUNTY CIRCUIT COURT

ST. FRANCIS HOME OF SAGINAW,
a domestic nonprofit corporation,
d/b/a ST. FRANCIS REHAB & SKILLED NURSING
and d/b/a ST. FRANCIS HOME,

Plaintiff,

v.

JEROME E. SIZICK, by his Agent under Durable Power of Attorney,
JANET E. SIZICK,

Defendant.

Case No: 23-000879 - CK

William M. Azkoul (P40071)
GRUEL MILLS NIMS & PYLMAN, PLLC
Attorney for Plaintiff
99 Monroe Avenue, NW
Suite 800
Grand Rapids, MI 49503
(616) 235-5500

THERE IS NO OTHER CIVIL ACTION BETWEEN THESE PARTIES ARISING OUT OF THE SAME TRANSACTION OR OCCURRENCE AS ALLEGED IN THIS COMPLAINT PENDING IN THIS COURT, NOR HAS ANY SUCH ACTION BEEN PREVIOUSLY FILED AND DISMISSED OR TRANSFERRED AFTER HAVING BEEN ASSIGNED TO A JUDGE.

COMPLAINT

NOW COMES Plaintiff, ST. FRANCIS HOME OF SAGINAW, a domestic nonprofit corporation, d/b/a ST. FRANCIS HOME REHAB AND SKILLED NURSING, and d/b/a ST. FRANCIS HOME, by and through its attorneys, GRUEL MILLS NIMS & PYLMAN, PLLC,

RECEIVED by MSC 10/11/2024 11:40:43 AM

and for its Complaint against the Defendant, JEROME E. SIZICK, by and through his Agent under Durable Power of Attorney, JANET E. SIZICK, states the following:

1. Plaintiff is a rehabilitation and skilled nursing facility with its principal place of business at 915 North River Road, Saginaw, Michigan 48609.

2. Defendant, JEROME E. SIZICK, is an individual residing at ST. FRANCIS HOME located at 915 North River Road, Saginaw, Michigan 48609.

4. Mrs. Janet E. Sizick is married to JEROME E. SIZICK, and Mrs. Sizick resides at 5535 Fort Road, Saginaw, MI 48601.

5. The amount in controversy exceeds Twenty-Five Thousand Dollars ($25,000.00), and this case is otherwise within the jurisdiction of the Saginaw County Circuit Court.

6. Venue is proper because Defendant resides in the City of Saginaw, Saginaw County, Michigan.

FACTUAL ALLEGATIONS

7. On or about April 21, 2021, Mrs. Janet E. Sizick executed an Admission Agreement, and, in particular, the Billing and Payment Policy-Monthly Statement with Plaintiff. **Exhibit 1,** Billing and Payment Policy-Monthly Statement.

8. On April 27, 2021, Defendant was admitted into Plaintiff's rehabilitation and skilled nursing facility as a resident in need of skilled health care services and products.

9. On May 10, 2021, Defendant executed a Durable Power of Attorney for Finances designating Mrs. Janet E. Sizick as Agent and attorney-in-fact. Mrs. Sizeck has been acting in her capacity as agent under Durable Power of Attorney and has managed the financial aspects of Defendant's residency with Plaintiff since that time.

RECEIVED by MSC 10/11/2024 11:40:43 AM

10. Defendant has been an adult resident at Plaintiff's rehabilitation and skilled nursing facility since April 26, 2021. The operative provisions of the Admission Agreement, Billing and Payment Policy – Monthly Statement, include, but are not limited to the following:

a. As "Resident Financial Representative," Mrs. Janet E. Sizick agreed "to be responsible for making payment to the facility from the Resident's income and assets."

b. "If Medicaid is not approved, payment of the account balance is expected immediately."

c. "The Resident will be charged for any deductible, co-payment, co-insurance, or patient pay amount identified by those programs as the Resident's Contribution towards the Resident's care and it is agreed that the charge for the Resident's Contribution must be paid in full, on time, each and every month."

d. "The Resident and/or Resident's Financial Representative agree to provide the facility with updated, complete and timely information regarding all payment sources listed above, and agree to immediately inform the facility if there is any change related to the payment sources listed above."

e. The Resident agrees "to be personally responsible for paying all billed charges not paid for by a third party, such as Medicare, Medicaid, assigned supplementary payments, or third party insurance programs. The Resident's Financial Representative agrees to pay from the assets and income of the Resident, all billed charges which are not paid for by a third party, such as Medicare, Medicaid, assigned supplementary payments, or third party insurance programs. The payments required by this paragraph shall be paid on time and in full, each and every month."

f. The Resident agrees that he "will be personally responsible for paying all Late Fees, attorney fees, and Bounced Check Fees. The Resident's Financial Representative agrees to pay all Late Fees, attorney fees, and Bounced Check Fees, from the assets and income of the Resident."

11. Plaintiff has fulfilled all of the terms and conditions of the Admission Agreement, including the Billing and Payment Policy-Monthly Statement, on its part.

RECEIVED by MSC 10/11/2024 11:40:43 AM

COUNT I

BREACH OF CONTRACT

12. Plaintiff incorporates by reference paragraphs 1-11 of this Complaint.

13. At all relevant times, Mrs. Janet E. Sizick had access and control over the income, assets and resources of Defendant, Jerome E. Sizick, by virtue of the Durable Power of Attorney for Finances and, upon information and belief, joint account holder status on Jerome E. Sizick's accounts and assets.

14. Defendant, Jerome E. Sizick, by and through his Agent under Durable Power of Attorney, Janet E. Sizick has violated the terms and conditions of the Admission Agreement and Billing and Payment Policy-Monthly Statement by failing to timely and fully pay for the residency and health care and services provided by Plaintiff to Defendant, on a monthly basis.

15. Defendant, JEROME E. SIZICK, by and through his Agent under Durable Power of Attorney, Mrs. Janet E. Sizick, currently owes One Hundred Sixty Seven Thousand Three Hundred Thirty One Dollars and Zero Cents ($167,331.00) to Plaintiff. **Exhibit 2,** Account History.

16. Despite an ongoing, protracted dispute between Defendant and the Michigan Department of Health and Human Services concerning Defendant's retroactive Medicaid eligibility, the Admission Agreement requires that Defendant timely pay Plaintiff for his monthly residency and health care charges.

17. Plaintiff seeks a judgment against the Defendant in the amount of One Hundred Sixty Seven Thousand Three Hundred Thirty One Dollars and Zero Cents ($167,331.00) and additional charges that accrue on his account hereafter, plus interest, costs and attorney fees which are anticipated to be Five Thousand Dollars ($5,000.00).

WHEREFORE, Plaintiff respectfully requests that the Court grant a Judgment in favor of the Plaintiff and against the Defendant in the amount of One Hundred Sixty Seven Thousand Three Hundred Thirty One Dollars and Zero Cents ($167,331.00), plus interest, costs and attorney fees in the amount of Five Thousand Dollars ($5,000.00), for a total of One Hundred Seventy Two Thousand Three Hundred Thirty One Dollars and Zero Cents ($172,331.00).

DATE: April 20, 2023

GRUEL MILLS NIMS & PYLMAN, PLLC

By: _____

William M. Azkoul (P40071)
Attorney for Plaintiff
BUSINESS ADDRESS:
99 Monroe Avenue, NW, Suite 800
Grand Rapids, MI 49503
(616) 235-5500
wmazkoul@gmnp.com

RECEIVED by MSC 10/11/2024 11:40:43 AM