

**STATE OF MICHIGAN**  
**COURT OF CLAIMS**

STEVE ST. JULIANA, personal representative of  
the estate of HANA ST. JULIANA, deceased,

**OPINION AND ORDER**

Plaintiff,

v

Case No. 23-000139-MM

MICHIGAN STATE POLICE and STATE OF  
MICHIGAN,

Hon. James Robert Redford

Defendants.

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OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY  
DISPOSITION

On November 30, 2021, fourteen-year-old Hana St. Juliana and three other students were brutally and senselessly murdered by Ethan Crumbley at Oxford High School in Oxford Charter Township, Oakland County, Michigan. During that violent rampage Ethan Crumbley also wounded six other students and a teacher. Ethan Crumbley has been sentenced to serve prison terms of life imprisonment without the possibility of parole for his actions. Deliso & El-Bawab, *Ethan Crumbley sentenced to life without parole in deadly Oxford school shooting*, ABC News (December 8, 2023).

His mother, Jennifer Crumbley, has been convicted of four counts of involuntary manslaughter and awaits felony sentencing for her actions related to these events. White & Williams, *Jury finds Jennifer Crumbley, the Michigan school shooter's mother, guilty of manslaughter*, AP News (February 6, 2024). Similarly, his father, James Crumbley, awaits trial.

Baldas, *Judge orders separate trials for James, Jennifer Crumbley in Oxford H.S. shooting case*, Detroit Free Press (November 13, 2023).

Words cannot describe the tragedy and horrors that transpired November 30, 2021, or the pain and suffering of those who lost their lives and were injured, or of their families and the community. That which was visited upon the victims and their families was undeniably a nightmare of unimaginable horror.

It is to this tragic situation the Court must fulfill its duties and decide defendants' Motion for Summary Disposition, which seeks to end this matter at this stage of the litigation. The attorneys for defendants argue that plaintiff, Hana St. Juliana's father, the personal representative of Hana's estate, did not comply with the notice provision of the Michigan Court of Claims Act within six months of Hana's death and, as a result, the case must be dismissed. Because the Court agrees with this conclusion, the Court is required to grant the defendants' motion.

## I. ANALYSIS

MCR 2.116(C)(7) provides for summary disposition on the basis of "immunity granted by law." When determining whether a claim is barred under MCR 2.116(C)(7), this Court examines "all documentary evidence submitted by the parties, accept[s] all well-pleaded allegations as true, and construe[s] all evidence and pleadings in the light most favorable to the nonmoving party." *Dougherty v Detroit*, 340 Mich App 339, 345; 986 NW2d 467 (2021) (quotation marks and citation omitted).

MCR 2.116(C)(8) provides for summary disposition when a party "has failed to state a claim on which relief can be granted." A motion under MCR 2.116(C)(8) tests the legal sufficiency of a claim on the pleadings alone. *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013). See also MCR 2.116(G)(5). In analyzing the claim, courts must accept as true all factual

allegations in the complaint and only grant the motion “when a claim is so clearly unenforceable that no factual development could possibly justify recovery.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019).

MCR 2.116(C)(10) provides for dismissal when “there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.” When deciding a motion under this rule, “a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion.” *El-Khalil*, 504 Mich at 160. “A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ.” *Id.* (quotation marks and citation omitted).

#### A. JURISDICTION OF THE COURT OF CLAIMS AND NOTICE REQUIREMENTS

Defendants request dismissal on the basis plaintiff did not file a complaint or notice of intention to file a claim within six months of accrual. The Michigan Supreme Court has held MCL 600.6431 “establishes conditions precedent for avoiding” governmental immunity. *Fairley v Dep’t of Corrections*, 497 Mich 290, 297; 871 NW2d 129 (2015). Notice provisions “generally give the state time to investigate and to appropriate funds for settlement purposes, while simultaneously allowing the claimant to retain the full benefit of the applicable limitations period.” *Rusha v Dep’t of Corrections*, 307 Mich App 300, 310; 859 NW2d 735 (2014) (quotation marks and citations omitted). MCL 600.6431 provides, in relevant part, as follows:

(1) Except as otherwise provided in this section, a claim may not be maintained against this state unless the claimant, within 1 year after the claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against this state or any of its departments, commissions, boards, institutions, arms, or agencies.

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(4) For a claim against this state for property damage or personal injuries, the claimant shall file the claim or notice under subsection (1) with the clerk of the court of claims within 6 months after the event that gives rise to the claim.

In *Christie v Wayne State Univ*, 511 Mich 39, 52; 993 NW2d 203 (2023), the Michigan Supreme Court emphasized the “unambiguous language of MCL 600.6431(1),” providing “*a claim may not be maintained against this state*” unless a plaintiff complies with the notice provision. The Court further explained “the Legislature was clear that the only exception to MCL 600.6431(1)’s notice requirements is contained ‘in this section’—in other words, in MCL 600.6431.” *Id.* at 53.

There is no dispute on the timeline in this case. Ms. St. Juliana was murdered on November 30, 2021, and plaintiff filed his notice of intent in this court September 22, 2022. This was more than nine months after the terrible events at Oxford High School. In his complaint, plaintiff asserts he learned of the Michigan State Police’s (MSP) role through plaintiff’s lawsuit against the Oxford Community School District on July 21, 2022, and he filed his notice of intent within six months of learning about the MSP’s involvement.

In arguing plaintiff’s bodily integrity claim accrued on the date of Ms. St. Juliana’s physical injury, defendants rely on *Bauserman v Unemployment Ins Agency*, 503 Mich 169, 181; 931 NW2d 539 (2019), in which the issue for the Michigan Supreme Court was how to determine the “event giving rise to the cause of action” for purposes of the notice period in MCL 600.6431(3). The Court explained “[t]he harm that enables a plaintiff to bring an action for monetary relief (i.e., the ‘actionable harm’) necessarily ‘originates’ such a cause of action, and is, thus, ‘the event giving rise to the cause of action.’ ” *Id.* at 183. The event giving rise to the cause of action, therefore, occurs on “the date on which the defendant’s breach harmed the plaintiff, as opposed to the date on which defendant breached his duty.” *Id.* (quoting *Frank v Linkner*, 500 Mich 133, 147; 894

NW2d 574 (2017)). Applying this to the present situation, the event giving rise to the cause of action occurred on November 30, 2021. Therefore, plaintiff had six months from November 30, 2021, in order to file his notice of intent to file a claim in this court.

“When a constitutional or statutory provision contains clear and unambiguous language it is not open to judicial construction and effect is given to the plain meaning of the words used.” *Rusha*, 307 Mich App at 304 (quotation marks and citation omitted). Here, the statutory provision contains clear and unambiguous language. Because MCL 600.6431 provides a claim may not be maintained against the state if a plaintiff does not file a notice of intent in a personal injury case within six months, defendants are entitled to dismissal. See *McCahan v Brennan*, 291 Mich App 430, 433-434; 804 NW2d 906 (2011) (explaining MCL 600.6431(3) provides a person “shall” file a notice of intention within six months, which is a mandatory provision). Plaintiff, nevertheless, raises several arguments about why the case should not be dismissed.

#### B. HARSH AND UNREASONABLE CONSEQUENCES

Plaintiff relies on *Rusha*, 307 Mich App at 311, in which the Court of Appeals stated an exception to enforcement of a statute of limitations related to a constitutional claim exists when the statutes “are so harsh and unreasonable in their consequences that they effectively divest plaintiffs of the access to the courts intended by the grant of the substantive right” (quotation marks and citation omitted). However, in *Rusha*, 307 Mich App at 312, the Court held the six-month statutory notice period did not divest the plaintiff of access to the courts for his claim, which involved allegations of cruel or unusual punishment. The Court explained the notice period was “a minimal imposition, especially considering that § 6431 allows the filing of statutory notice in lieu of filing an entire claim.” *Id.* at 310.

Plaintiff argues the exception was applied in *Mays v Governor*, 323 Mich App 1; 916 NW2d 227 (2018). In *Mays*, 323 Mich App at 25, the Court of Appeals affirmed this Court's finding that genuine issues of material fact existed regarding whether the plaintiffs satisfied the notice requirements of MCL 600.6431. Further, the Court held "the harsh-and-unreasonable-consequences exception relieves plaintiffs from the statutory notice requirements." *Id.* The plaintiffs filed their suit in January 2016, without filing a notice of intention to file a claim, and the defendants argued the claim began to accrue in either June 2013, when the plaintiffs alleged the state began the process to use the Flint River as a water source, or in April 2014, when the water source was switched to the river and people began to receive the water in their taps. *Id.* at 27. The Court agreed with this Court's observation that accepting the defendants' position and dismissing the case "would require a finding that plaintiffs should have filed suit or provided notice at a time when the state itself claims it had no reason to know that the Flint River water was contaminated." *Id.* at 27-28. See also *Bauserman*, 503 Mich at 181 n 5 (recognizing the Court of Appeals applied the exception in *Mays*). The Court of Appeals further affirmed this Court's finding that the situation was not one "in which an ostensible, single event or accident has given rise to a cause of action, but one in which the event giving rise to the cause of action was not readily apparent at the time of its happening." *Mays*, 323 Mich App at 35 (quotation marks and citation omitted).

The present situation differs because plaintiff here knew about the tragic death of his daughter on November 30, 2021. The Flint residents did not, and could not, know about the danger their water posed in 2013 or 2014. Nor did the facts of the case at that time conclusively or specifically identify *when* the residents were harmed. *Id.* at 25. Referring to the remaining question of fact about when the Flint residents were harmed, the Court of Appeals explained "while

a claimant's knowledge of each element of a cause of action is not necessary for claim accrual, a claim does not accrue until each element of the cause of action, including some form of damages, *exists.*" *Mays*, 323 Mich App at 29. Tragically, each element of plaintiff's current claim existed as of November 30, 2021. There are no actions the MSP could have taken after that date that would give rise to plaintiff's current claim. Further, the present situation is different than that in *Mays* because there was one, single event that gives rise to plaintiff's cause of action.

Additionally, defendants note in their reply brief that plaintiff has not challenged defendants' request that this Court take judicial notice that public information regarding the OK2SAY Program was published as early as January 19, 2022. Plaintiff's receipt of more information in July 2022 does not support an application of the harsh-and-unreasonable consequences exception, which has only been applied in very rare occasions, like those present in *Mays*.

### C. LETTERS OF AUTHORITY

Next, plaintiff argues he satisfied the notice requirement because he filed his claim within two years after letters of authority were issued appointing him the personal representative of his daughter's estate. Plaintiff argues MCL 600.6452(2) provides the provisions of the Revised Judicature Act relative to limitations on actions are applicable to cases in this Court. Plaintiff then points to *Trentadue v Buckler Lawn Sprinkler*, 479 Mich 378, 388; 738 NW2d 664 (2007), in which the Michigan Supreme Court stated the Revised Judicature Act "provides for tolling of the period of limitations in certain specified situations."

MCL 600.5852(1), on which plaintiff relies, provides "[i]f 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” (emphasis added). There is no indication, however, that the Legislature intended the letters of authority to toll the Court of Claims *notice* provision. In *Bauserman*, 503 Mich at 183-184, the Supreme Court’s finding of a similarity between limitations and notice periods related to the dates of accrual, rather than their application for purposes of tolling. Moreover, in the same chapter as MCL 600.5852, MCL 600.5856 provides *statutes of limitations* are tolled under a number of circumstances, including when “*notice is given in compliance with the applicable notice period* under section 2912b, if during that period a claim would be barred by the statute of limitations or repose” (emphasis added). This indicates the Legislature distinguishes between the application of a statute of limitations and a notice period.

Moreover, MCL 691.1404(3), for example, explicitly provides exceptions to the notice requirement in cases of highway defects, including for an injured person “physically or mentally incapable of giving notice.” See *Blohm v Emmet Co Bd of Co Rd Comm’rs*, 223 Mich App 383; 565 NW2d 924 (1997), (holding the 180-day notice period began “once the disability of death is removed by the appointment of a personal representative”). However, there is no similar provision or exception in MCL 600.6431.

#### D. DISCOVERY RULE

Plaintiff additionally argues he complied with the notice requirement because he filed his complaint within six months of discovering the MSP’s violations of his daughter’s constitutional rights. Plaintiff states he did not know at the time of the November 30 shooting “of the role that the defendants played in disregarding red flags and warning signs of a shooting until those facts were disclosed through a lawsuit against the Oxford Community School District.”

Plaintiff argues the Michigan Supreme Court wrongly decided *Trentadue*, 479 Mich at 407, in which it held “the plain language of MCL 600.5827 precludes the use of a broad common-law discovery rule to toll the accrual date of claims to which this statute applies.” The Court held the plaintiff’s claim accrued when the decedent was murdered in 1986, barring the claim, even when the plaintiff alleged she could not have “reasonably discover[ed] the facts underlying [the defendants’] negligence until 2002.” *Id.* at 407. The Court held the Legislature had “establish[ed] tolling based on discovery under particular circumstances,<sup>1</sup> but has not provided for a general discovery rule that tolls or delays the time of accrual if a plaintiff fails to discover the elements of a cause of action during the limitations period.” *Id.* at 391.

Plaintiff argues that, in its decision, the Court failed to abide by the principles of stare decisis, and plaintiff relies on cases in which he asserts courts have applied the discovery rule. However, the cases on which plaintiff relies largely related to limitations periods, rather than this Court’s notice requirements. Further, the Michigan Supreme Court specifically addressed one of the cases, *Chase v Sabin*, 445 Mich 190; 516 NW2d 60 (1994), and rejected it, holding “courts may not employ an extrastatutory discovery rule to toll accrual in avoidance of the plain language of MCL 600.5827.” *Trentadue*, 479 Mich at 391-392.

A general discovery rule avoids the plain language of MCL 600.6431. As this applies to the present case, the fact that plaintiff alleges he did not discover the MSP’s role in what occurred on November 30, 2021 until July 2022 does not extend the notice period beyond the six months provided for in MCL 600.6431. There is no reason to believe that defendants, or anyone else, fraudulently concealed the MSP’s role in the reporting program. Nor that the information was not

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<sup>1</sup> For example, MCL 600.5855 specifically provides for tolling on the basis of fraudulent concealment.

at least basically available to plaintiff at the time the notice period expired on May 30, 2022. Therefore, even if a discovery rule applies in some situations, the information was available to plaintiff differently than it was to the plaintiffs in, for example, *Mays*.

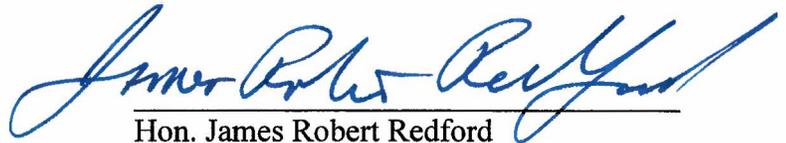
## II. CONCLUSION

Because plaintiff's notice was not filed within six months of November 30, 2021, this Court does not have jurisdiction to adjudicate the claims.

Defendants' motion for dismissal is GRANTED.

This is a final order of the Court and closes the case.

Date: March 6, 2024



Hon. James Robert Redford  
Judge, Court of Claims

