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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

RESPONSE TO COURT ORDER OF

JANUARY 24, 2025

ORAL ARGUMENT REQUESTED

Dated: March 7, 2025

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

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STATEMENT OF QUESTIONS PRESENTED

1. Whether the appeal has been rendered moot as a result of the death of Jerome Sizick.

   Petitioner-Appellant and amicus say: No.

   Appellee says: Yes.

2. If it is moot, whether an exception to the mootness doctrine is applicable?

   Petitioner-Appellant and amicus say: Yes.

   Appellee says: No.

3. If the appeal is not moot or if a mootness exception applies, whether In re Estate of Schroeder, 335 Mich App 107 (2020), wrongly held that a probate court, in evaluating a petition for a protective order of spousal support under MCL 700.5401, cannot consider whether Medicaid benefits will be available to a protected individual in measuring his or her needs prior to a Medicaid eligibility determination.

   Petitioner-Appellant and amicus say: Yes.

   Appellee answer is presently unknown.

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INTRODUCTION

On April 10, 2024, Appellant filed an application for leave to appeal to the Michigan Supreme Court of the decision rendered by the Court of Appeals in the case of In re Estate of Jerome Sizick (Sizick II) Docket No.: 364321 (unpublished) issued on January 18, 2024. 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 named Petitioner-Appellant. On September 13, 2024, the court directed the parties to file supplemental briefs on the issue of mootness caused by the death of Jerome E. Sizick. On January 24, 2025, the court instructed the clerk to schedule this matter for oral arguments on the application and directed the parties to file supplemental briefs addressing the issue of mootness and whether In re Estate of Schroeder wrongly held that a probate court could not issue a protective order of spousal support under MCL 700.5401 without a Medicaid eligibility determination. Appellant files the following supplemental brief.

ARGUMENTS

I. This Appeal is not moot due to the death of Jerome Sizick.

"An issue is moot if an event has occurred that renders it impossible for the court, if it should decide in favor of the party, to grant relief." City of Warren v Detroit, 680 NW 2d 57, 58n1 (Mich App 2004) quoting Michigan Nat'l Bank v St. Paul Fire & Marine Ins. Co., 566 NW 2d 7, 9 (Mich App 1997). Jerome Sizick died 14 days after the application for leave to appeal was filed with this court. An informal decedent probate case was opened

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in Saginaw County Probate Court on May 2, 2024. Estate of Jerome E. Sizick, deceased, Case No.: 24-145794-DE. Appendix 1 from Appellant's Brief in Support of Jurisdiction. St. Francis 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. Id. at Appendix 2. The nursing home asserted that it was owed room and board incurred by Jerome Sizick between April 26, 2021 until his date of death. The Personal Representative of his estate is under a statutory duty to pay all legally enforceable creditor claims. MCL 700.3703, 700.3715; also see MCL 700.3801 et seq.

If the court grants the application for leave to appeal and Appellant prevails, then the Respondent will be responsible for paying all or part of a healthcare cost reported on the Proof of Claim. This will be tangible relief to the estate.

A. MOAHR hearing held in abeyance.

After the Sizick I decision was rendered, on June 8, 2022, the local MDHHS caseworker issued a Notice of Case Action denying the Medicaid case in which she stated that the value of the countable assets exceeded the Medicaid resource limit. Tr47, Ex24. While not before the Supreme Court, Jerome Sizick requested a fair hearing of the denial of Medicaid benefits to the Michigan Office of Hearings & Appeals (MOAHR). Docket No.: 22-004133. The case has been held in abeyance pending the on-going appeals. See Ex1 attached to this brief. After the probate court issued its protective orders of December 13, 2022, Sizick submitted the orders to the MDHHS caseworker with an additional application for Medicaid benefits. When MDHHS did not process the Medicaid application timely, Sizick filed another request for a fair hearing to MOAHR on March 16, 2023. MDHHS would deny the Medicaid application for being over-resource on April 3, 2023. MOAHR

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assigned the case Docket No.: 23-001743. The 2 MOAHR cases were consolidated. Presently, the cases are being held in abeyance pending the decision of the Michigan Supreme Court. See Ex1.

While these cases are not before this court, the Appellant is not requesting that the Michigan Supreme Court make a Medicaid determination. Rather, the Appellant is requesting that the Supreme Court reinstate the protective orders previously issued which will then guide MOAHR in a Medicaid determination. Appellant is seeking reimbursement of all or part of the healthcare costs reported on the Proof of Claim. Because of the lawsuit that St. Francis Nursing Home filed against Jerome Sizick (Appendix 3 of Brief in Support of Jurisdiction), Mrs. Sizick paid money to the nursing home. Id. at Appendix 2. Reinstatement of the protective orders may also result in her being reimbursed. Regardless, this is not a case of mootness since there is an actual case and controversy between the parties in which relief can be granted if this court reverses the Michigan Court of Appeals and reinstates the protective orders.

B. Valid Protective Orders.

The Appellee has asserted that the case is moot because it is impossible for the reviewing court to grant the relief as requested by the Appellant due to the death of Sizick. MDHHS has argued that the protective orders issued on June 21, 2021 and December 13, 2022 are insufficient to establish the amount of assets to be transferred to Janet Sizick and would be speculative at best. Furthermore, MDHHS asserts that due to the death of Jerome Sizick, if Appellant prevails and the case is remanded, the Probate Court still cannot issue a protective order because the definition of need as set forth in MCL 700.5401(3)(b) does not apply to a deceased estate.

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This analysis begs the question that the protective orders were not valid initially when issued on June 21, 2021 and December 13, 2022. As noted in the amicus curiae brief of ELDRS and MI-NAELA,

> After analyzing Medicaid's spousal impoverishment provisions and support orders under EPIC, Vansach concluded the "federal Medicaid statutes plainly acknowledged that courts may have jurisdiction to enter a support order and this support order will affect the calculation of CSMIA" Vansach, 324 Mich App at 387. Vansach also concluded the Department's jurisdictional arguments were without merit because "...the probate courts clearly have subject matter of jurisdiction to enter a protective order directing the distribution of a protected individual's income' to or for the use of...any of the protected individual's dependents or other claimants" Vansach 324 Mich App at 389. There is nothing in Vansach that supports the premise of Sizick, i.e., it is an abuse of discretion for the probate court to issue an order of support that affects a Medicaid spousal income or asset allowance unless a protected individual has first qualified for Medicaid.

After evaluating the evidence and testimony, the probate court in Sizick concluded the transfer of marital assets to the community spouse was necessary to meet her proven needs and to enable her to continue to live independently. The probate court's analysis of the circumstances included its recognition that the issuance of the protective order would allow the nursing home spouse to qualify for Medicaid and thereby have his needs met. The probate court determined the community spouse did not need all the nursing home spouse's income for his support. As the amicus notes, the Court of Appeals in Sizick did not find fault with the probate court's evaluation of the evidence and its conclusions but rather rejected on its position that the probate court abused its discretion by making those determinations before the nursing home spouse's eligibility for Medicaid was determined by MDHHS. In other words, nothing was cited finding the protective orders were invalid other than the Court of Appeals reliance on Schroeder that a Medicaid determination was necessary first.

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When each protective order was entered by the Saginaw County Probate Court, Jerome Sizick was quite alive. The court weighed the Vansach equities when issuing its orders. In fact, nothing was "speculative" since MDHHS did an Initial Assessment and determined the exact amount of countable assets the Sizicks owned. Tr41-3, Ex16. This amount was incorporated into the order of June 21, 2021. Extensive testimony as to the Sizicks' assets, the value of those assets, and who owned those assets was provided to the probate court. Extensive testimony was presented as to the need of the parties. After hearing extensive testimony and carefully analyzing all of the exhibits, the trial court reaffirmed that clear and convincing evidence had been presented demonstrating that Janet Sizick was a spouse in need of support. Tr75. It is Appellant's position that these are valid protective orders based on the Vansach equities. This court can issue the relief as requested by the Appellant by reversing the decision of the Court of Appeals and reinstating the protective orders.

II. This Appeal should be reviewed because it holds public significance which is likely to reoccur and evade judicial review.

Alternatively, if the court finds that this matter is technically moot, it should nonetheless review this appeal because it presents an issue of public significance that is likely to reoccur and also likely to evade judicial review. In re Martin, 602 NW 2d 630, 631 (Mich App 1999) citing to In re Midland Publishing Co., Inc., 420 Mich App 148, 152n.2 (1984) and In re Parole of Franciosi, 231 Mich App 607, 615 (1998). 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. They are not millionaires. They have accumulated a small nest egg. The institutionalized spouse,

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who becomes a patient resident of a nursing home, may have strong tendency to ultimately die in the nursing home. The Court of Appeals has relied on In re Estate of Schroeder, 966 NW 2d 209 (Mich App) which is effectively blocking Michigan married couples from exercising their rights under 42 USC 1396r-5(f)(3) who have obtained a protective order for spousal support from a local probate court in order to provide needed benefits and additional resources for the dependent community spouse. The Court of Appeals created a "Catch 22" by requiring a protected individual to qualify for Medicaid before a protective order for spousal support can be sought. This effectively nullifies the benefit of a protective order since the resources would have to be spent down before qualifying for Medicaid. The Schroeder decision's interpretation of EPIC governing protective orders 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. Again, once those resources are spent down, seeking a protective order is ridiculous.

The roadblocks that are imposed by Schroeder were augmented by the state agency 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. This could likely happen again and again since 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.

An examination of the federal law does not impose a precondition of a Medicaid determination for a community spouse to obtain a protective order of support. 42 USC 1396r-5(d)(5) and 42 USC 1396r-5(f)(3). The public significance of the Schroeder decision

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is barring Michigan citizens from exercising their rights as allowed by federal law. This case will continue to reoccur and evade judicial review given the roadblocks that have been imposed by the Schroeder decision besides the manipulative actions of the state agency.

III. In re Estate of Sizick decision in reliance of In re Estate of Schroeder proposition that a probate court abuses its discretion in issuing a protective order for support before a protected individual has applied and been determined eligible for the Medicaid program is contrary to federal and state law.

The amicus curiae brief submitted by ELDRS and MI-NAELA does an excellent analysis and summary of why Sizick and Schroeder are inconsistent with Michigan and federal law. Appellant incorporates the arguments as set forth in the amicus curiae brief and its rationale why In re Estate of Sizick and In re Estate of Schroeder should be reversed. The remainder of this brief is to summarize some of the key points raised in this analysis.

A. The protective orders issued in Sizick are not an abuse of discretion.

A court order that transfers a protected individual's assets for the support of spouse is "time-sensitive". It must be issued before a protected individual applies for Medicaid or during the Medicaid application process to affect the spouse's community resource allowance. BEM 402. Otherwise, the protected individual's Medicaid eligibility will be determined, by default, according to the asset limit in the Michigan Medicaid policy. There is no benefit to the protected individual or the spouse since the marital assets are otherwise having to be spent down if a Medicaid determination must be made prior to a protective order being issued. Sizick, in reliance of Schroeder, ruled as a matter of law it was an abuse of discretion for a probate court to issue an order of spousal support before

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a protected individual has applied and been determined eligible for Medicaid. This is contrary to 42 USC 1396r-5(f)(2) and (3) and BEM 402 (Michigan Medicaid policy) which requires the amount of the resources transferred under a court order to be used as a protected spousal amount in the eligibility determination. Neither Sizick nor Schroeder considered the discussions in Vansach of the probate court's jurisdiction as it intersects with federal Medicaid law and the Michigan Medicaid policy. In fact, there is nothing in Vansach that supports the premise of Sizick that it is an abuse of discretion for a probate court to issue an order of support that affects a Medicaid spousal income or asset allowance unless a protected individual has first qualified for Medicaid.

The bright line Sizick and Schroeder have drawn between pre-Medicaid protective orders and post-Medicaid protective orders is arbitrary and capricious. It does not square with the extensive analysis in Vansach of the probate court's jurisdiction to issue protective orders in the Medicaid context. Instead of applying the standards of Vansach describing considerations which should affect a probate court's exercise of its jurisdiction to make protective orders of spousal support in the Medicaid context, Sizick and Schroeder avoid them all together and outright repudiate that authority when it comes to pre-Medicaid petitions for protective orders of spousal support.

B. The probate court has jurisdiction to issue protective orders of support in the Medicaid context.

Sizick is incompatible with analysis in Vansach of the probate court's jurisdiction to issue a protective order in the Medicaid context. Sizick reached a conclusion that it is an abuse of discretion for a probate court to issue an order of spousal support affecting the estate of a protected individual unless that person has first qualified for a Medicaid

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program based on the Schroeder panel's interpretation of 42 USC 1396r-5. Vansach, 324 Mich App at 390. Vansach found no merit in this argument because contrary to the Department's assertions, "EPIC's provisions allowing the probate court to enter a support order are consistent with Congress's objectives and purposes in enacting Medicaid in the spousal impoverishment provisions quoting to James v Richmond, 547 F3d 214, 219 (CA3, 2009):

> "Indeed if the use of state court support orders for the calculation of CSMIAs is inconsistent with the overarching goals of Medicaid and the spousal impoverishment provisions, Congress created the inconsistency, and it is certainly no our role to ignore the text of the Medicaid statutes or to 'create rules based on our own sense of the ultimate purpose of the law being interpreted…'" *Vansach*, 324 Mich App at 391, Footnote 10.

Vansach, 324 Mich App at 391. Again, there is nothing in Vansach that supports the premise that Sizick probate court abused its discretion in issuing an order of support that affects a Medicaid spousal income or asset allowance unless a protected individual has first qualified for Medicaid.

C. Sizick reliance on the findings in Schroeder that it is "problematic" to assess a nursing home spouse's need when no Medicaid eligibility determination was made at the time a probate court issues a protective order of support is erroneous.

The amicus brief in examining Schroeder and Sizick reasoning of "problematic" states the following:

> In *Schroeder*, the Court said:
>
> "We find problematic the probate court's determination of Medicaid and patient-pay amounts in assessing need when no Medicaid-eligibility and patient-pay amounts had been made at the time of the court's ruling." *Sizick* at 12.

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Why is it "problematic"? The Court said:

> "We understand and appreciate that patient-pay amounts can be estimated before the submission of a Medicaid application and a Medicaid-eligibility determination. But in assessing the 'need' for money for a person's care and support under MCL 700.5401(3)(b) on the basis of Medicaid-related circumstance, there must actually be Medicaid determinations regarding eligibility and patient-pay amounts." *Sizick* at 12-13.

How did *Schroeder* come to the conclusion? It said:

> "Indeed, the *Vansach* panel stated that '[i]n cases in which an institutionalized spouse is receiving Medicaid benefits, weighing *both* spouses' needs and circumstances requires consideration of those needs and circumstances as they actually exist under Medicaid.' *Vansach*, 324 Mich App at 396." *Sizick* at 13.

As the amicus profoundly states, these excerpts from Schroeder reveals the court's misunderstanding of how Medicaid works. When a protective order is presented to MDHHS as part of Medicaid application or during the Medicaid application process, the amounts set by the probate court for the amount of the nursing home spouse's income to be used for the support of the community spouse and for the amount of the marital assets to be transferred for the support of the community spouse are the same numbers the Department must use to determine eligibility. 42 USC 1396r-5(f)(3), BEM 546. Not only does the probate court know these numbers, but the law and the Department policy require that they use those numbers. There is no speculation or uncertainty about these numbers. In fact, in the Sizick case, an Initial Asset Assessment of the countable assets of the Sizicks was determined prior to the June 21, 2021 hearing. Ex14 and Ex16; Tr41-3. This information was incorporated into the protective order of June 21, 2021. Again, there was no speculation because the needs and circumstances of both spouses as they actually exist under Medicaid are known when the court issued its protective orders.

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Schroeder also erred in relying on Vansach in this regard. Footnote 14 of Vansach states:

> "We emphasize that the petitions in this case were made after the initial Medicaid determinations had been made and the petitions were premised on the assertion that additional income was needed to 'support' Beverly and Ramona, presumably because § 1396r-5(d)(5) recognizes court orders 'for the support of the community spouse.' Thus, our analysis is focused on the issuance of orders for support under EPIC **after** an initial Medicaid eligibility determination has been made; **we are not concerned with** gift-giving beyond what is needed for support, or other **attempts to use protective proceedings, *before* the initial Medicaid determination for Medicaid-planning purposes."** (Emphasis added). *Vansach*, 324 Mich App at 394

Vansach addressed how a probate court must evaluate a petition for a protective order of spousal support seeking a change in the patient pay amount by diverting more of the nursing home spouse's income for support of the community spouse. What Vansach did was weigh the needs and circumstances of the community spouse and the nursing home spouse "as they actually exist under Medicaid" because those were the facts before it. What Vansach did not do is instruct the probate court on how to evaluate a petition for a protective order by allowing the nursing home spouse to qualify for Medicaid by allocating more of the couple's assets to be allocated to meet the needs of the community spouse in accordance with federal Medicaid law and Michigan Medicaid policy. It never ruled that a probate court lacks jurisdiction under EPIC to make that determination. Again, this type of protective order is "time sensitive" and is useless unless issued before or during the Medicaid application process.

Sizick and Schroeder erred because they arbitrarily impede in a Medicaid applicant's ability to access a protection against spousal impoverishment as allowed by federal Medicaid law and Michigan Medicaid policy.

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As the amicus points out, one passage illustrating Schroeder and Sizick's misunderstanding of Medicaid eligibility rules and the Medicaid application is the following:

> The probate court here, however, considered needs in the context of Medicaid-related circumstances even though Mr. Schroeder and Mr. Almay were not receiving Medicaid benefits and were awaiting Medicaid-eligibility determinations. Schroeder, 335 Mich App at 123 quoted in Sizick at 13.

It creates an obtuse view that Medicaid eligibility had to be established even though Vansach expressed no opinion on protective proceedings used in Medicaid context before an initial Medicaid determination. Again, the purpose that the community spouse files a petition for a protective order of spousal support in probate court is to set aside more of the married couple's financial resources to be used to enable her to continue to live independently while qualifying the protected individual for Medicaid. This is in compliance with federal Medicaid law and Michigan Medicaid policy. Schroeder impedes the citizens of Michigan in accessing their protected rights under federal law and Michigan policy.

The Medicaid circumstances in Sizick and Schroeder are very different from Vansach. Again, Vansach had already had a Medicaid determination in which the party was presenting clear and convincing evidence that the nursing home spouse and community spouse's needs would be met by a protective order diverting more of the protected individual's income to the community spouse. They had already spent down their assets. In contrast, Sizick and Schroeder's "Medicaid-related circumstances" were to facilitate Medicaid eligibility for the nursing home spouse by increasing the community resource allowance. Without such a court order, qualification for Medicaid was impossible without spending a significant portion of the couple's countable assets while compromising the ability of the community spouse to meet current and future living needs to live independently. Sizick and Schroeder were wrongly decided because they arbitrarily

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preclude a probate court from granting relief which allows Michigan citizens to secure protections against spousal impoverishment and federal Medicaid law and Michigan Medicaid policy. In fact, the probate court in its protective orders concluded that the transfer of all the marital assets to the community spouse was necessary to meet her proven needs and to enable her to continue to live independently at home. The court's analysis of the circumstances including its recognition that the issuance of a protective order would allow the nursing home spouse to qualify for Medicaid and have his needs met while protecting assets for the benefit of the community spouse.

The amicus also points out how the Schroeder court construes Vansach by stating:

> A nursing home resident who does not qualify for Medicaid coverage will certainly owe considerably more money to the nursing home than a patient pay amount in a Medicaid setting. The idiom putting the cart before the horse is aptly applicable to the probate court's analysis. Therefore, reversal is necessary. Schroeder, 335 Mich App at 123 quoted in Sizick at 13.

Again, as the amicus points out, Schroeder failed to recognize the reversal of the protective order in that case caused the very problem the court identifies. Because the nursing home spouse did not have protective orders to support their applications for Medicaid, they did not qualify and had to "pay considerably more to the nursing home" than if the protective order remained intact. Bluntly, in Schroeder and Sizick, the protective order is the mechanism which enables the horse to pull the cart over the finish line of Medicaid eligibility.

D. Sizick reliance on Schroeder requiring that a probate court must identify the interest being transferred from a nursing home spouse is an error in the interpretation of a protective order for spousal support.

Sizick once again relies on Schroeder analysis by citing the following passage:

> "When a probate court asks to transfer property upon satisfaction of the prerequisites in MCL 700.5401, it is imperative for the court to identify the

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> interest being transferred and the value of those interests. Although there is no specific language in EPIC demanding that information, when a court is examining the financial needs of spouses and orders transfers on the basis of those needs, a valuation of assets or interest therein is inescapable and necessary component of the analysis. Schroeder, 335 Mich App at 125; Sizick quoted at 16.

The Sizick II court rejected the language of the protective order transferring 100% of Mr. Sizick's assets to Janet Sizick as support by stating that

> ...the probate court erred because the list is not an accurate representation of the interest being transferred and the value of those interests as required by Schroeder 335 Mich App at 125. We agree Sizick at 17.

After examining the community spouse's needs and the value of the assets reported in the petition for a protective order, a probate court determines it is necessary for all of the assets to be transferred to the community spouse to enable her to continue to live independently at home, it does not matter whether the ownership of those assets are identified and valued in a protective order. It is simply sufficient to order the transfer of ownership of nursing home spouse's interest in the marital assets to the community spouse. That portion of the order serves the qualifications for Medicaid because the order of support affects the asset limit used to determine eligibility in the Medicaid application process. Under BEM 402, the couple has up to 1 year after the month the Medicaid application is processed in which to actually transfer the ownership of the assets to the community spouse. Nothing more is necessary in the protective order to serve the best interest of the 2 spouses.

Regardless, in Sizick, there was an Initial Asset Assessment identifying the assets for the Department. Furthermore, there was extensive evidence and testimony given to the court identifying the assets. Even if it was not necessary under federal Medicaid law and Michigan Medicaid policy, it was more than sufficient. Again, there is no requirement

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under EPIC. Regardless, this information was thoroughly incorporated into the protective orders issued on June 21, 2021 and December 13, 2022.

RELIEF REQUESTED

The Medicare Catastrophic Coverage Act of 1988 (MCCA) was enacted to protect community spouses from impoverishment while allowing married couples to seek assistance from the Medicaid program to cover the cost of long-term care services. MDHHS policy and the federal law all recognize that courts can issue orders of spousal support. However, the Court of Appeals has created a "Catch 22" by requiring a protected individual to qualify for Medicaid before a protective order for spousal support can be sought. This effectively nullifies the benefit of a protective order to the citizens of Michigan. The Court of Appeals' interpretation of EPIC governing protective orders is effectively blocking married couples from obtaining a probate court order of spousal support to provide needed benefits for a dependent spouse. The Schroeder and Sizick decisions are restrictive interpretations of MCL 700.5401(3)(b) and 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. Complicating these roadblocks was MDHHS's own actions to intentionally manipulate the facts that were presented in its appeal of the protective order by not timely processing the application for Medicaid as mandated by federal regulation and its own agency policy.

The Sizicks are not millionaires. They accumulated a small nest egg after 60 years of marriage. They are the typical Michigan married couple where one spouse needs nursing home care while the community spouse is in great need of spousal support for her

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care. The local probate court did not abuse its discretion in approving a protective order of support which would allow Jerome Sizick to have his needs met through the Medicaid program while providing his dependent spouse additional security.

As outlined in the supplemental brief, this case is not moot due to the death of Jerome Sizick. This court can provide adequate relief by reversing the Court of Appeals' decision and reinstating the protective orders to grant needed relief to the Appellant. Accordingly, Petitioner-Appellant respectfully requests that the Supreme Court find that the case is not moot and grant leave and peremptorily reverse 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 supplemental brief contains 4,813 countable words according to the Microsoft Word 10 program.

Respectfully submitted,

Dated: March 7, 2025

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

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EXHIBIT 1

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

JEROME SIZICK
805 S MICHIGAN AVE
SAGINAW, MI 48602

Date Mailed: February 28, 2025
MOAHR Docket No.: 22-004133 and 23-001743
Agency No.: 131878188
Petitioner: Jerome Sizick

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

ORDER GRANTING ADJOURNMENT AND NOTICE OF STATUS CONFERENCE

On February 26, 2025, Petitioner's representative requested an adjournment of the status conference scheduled in the above captioned matter for February 27, 2025. Petitioner's representative indicated that there is a pending case with the Michigan Supreme Court that could impact the administrative proceeding. Therefore, there is good cause adjourn and schedule another status conference.

NOW THEREFORE, IT IS ORDERED that a status conference in the above-captioned matter will be held via telephone in accordance with applicable law and policy as outlined on the following page.

Notice of Telephone Status Conference:

Date: **Thursday, June 5, 2025**

Time: **8:30 AM Eastern Time**

Call In: **THIS CONFERENCE WILL BE HELD BY TELEPHONE**

Dial: 248-509-0316
Pass Code: 831 579 176#

Petitioner and Respondent are instructed to call in at the scheduled date and time. The parties are not required to have witnesses present. If a party does not call in for the telephone status conference within 15 minutes of the scheduled time, the status conference shall proceed in the party's absence.

EM/

Ellen McLemore
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office Administrative Hearings and Rules.

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Via-Electronic Mail :

Counsel for Respondent
Erin E. Harrington
Michigan Department of Attorney General, Health, Education & Family Services Division
P.O. Box 30758
Lansing, MI 48909
AG-HEFS-MAHS@michigan.gov

Counsel for Respondent
Terracina B. Echols
Michigan Department of Attorney General, Health, Education & Family Services Division
P.O. Box 30758
Lansing, MI 48909
AG-HEFS-MAHS@michigan.gov

DHHS
Elisa Daly
Saginaw County DHHS
411 East Genesee
PO Box 5070
Saginaw, MI 48607
MDHHS-Saginaw-Hearings@michigan.gov

Via-First Class Mail & Email :

Counsel for Petitioner
Norman Harrison
Weinstein & Harrison PLC
805 South Michigan Avenue
Saginaw, MI 48602
norm@saginawlaw.com

Via-First Class Mail :

Petitioner
Jerome Sizick
805 S Michigan Ave
Saginaw, MI 48602