

Court of Appeals, State of Michigan

ORDER

LEE DOUGLAS V PROVIDENCE HOSPITAL

Henry William Saad
Presiding Judge

Docket No. 296430

Kathleen Jansen

LC No. 2009-096782-NH

Pat M. Donofrio
Judges

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

The motion to strike is GRANTED. The depositions filed as defendant-appellant's exhibits 6-B and 6-E, the reply filed as defendant-appellant's Exhibit 8, and all references to those exhibits included in the application are hereby ordered STRICKEN and will not be considered by the Court.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the Oakland Circuit Court's order dated December 18, 2009 denying defendant Providence Hospital's motion for partial summary disposition is REVERSED. A hospital is not vicariously liable for the negligence of a physician who is an independent contractor and merely uses the hospital's facilities to render treatment. *Grewe v Mt Clemens Gen'l Hospital*, 404 Mich 240; 273 NW2d 429 (1978). Plaintiffs failed to present evidence that defendant Providence Hospital committed some act or omission which led plaintiffs to reasonably believe that the other defendants were acting as its employees or agents during the time treatment was provided. Defendant Providence Hospital cannot be held vicariously liable for the other defendants' acts under theories of actual or ostensible agency. *VanStelle v Macaskill*, 255 Mich App 1; 662 NW2d 41 (2003).

The motion to stay further circuit court proceedings pending appeal is DENIED as moot.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 26 2010
Date

Sandra Schultz Mengel
Chief Clerk