Order

Michigan Supreme Court
Lansing, Michigan

May 8, 2026

SC: 168334
COA: 367598
Ct of Claims: 22-000159-MK

AMY MCCORMICK and ROBERT MCCORMICK,
Plaintiffs-Appellees,

v

MICHIGAN STATE UNIVERSITY,
Defendant-Appellant.

On January 21, 2026, the Court heard oral argument on the application for leave to appeal the January 10, 2025 judgment of the Court of Appeals. On order of the Court, the application is again considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

BERNSTEIN, J. (*concurring*).

Although I concur in this Court's order denying defendant's application for leave to appeal, I write separately to address the intersection between this Court's decision in *Christie v Wayne State Univ*, 511 Mich 39 (2023), and the notice requirements of the Court of Claims Act, MCL 600.6401 *et seq*.

MCL 600.6431(1) provides that

> [e]xcept 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.

Stated differently, MCL 600.6431(1) establishes a precondition to filing suit against the state. *Christie*, 511 Mich at 51. Plaintiffs allege that they could not timely comply with the notice provision because defendant fraudulently concealed its identity as the party liable for plaintiffs' claims and that defendant's actions thus tolled the one-year notice

requirement of MCL 600.6431(1). The fraudulent-concealment provision is codified at MCL 600.5855 and provides:

> If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.

In *Mays v Governor (Mays I)*, 323 Mich App 1, 43-44 (2018), the Court of Appeals held that "when the fraudulent-concealment exception applies, it operates to toll the statutory notice period [of MCL 600.6431(1)] as well as the statutory limitations period." This Court affirmed this aspect of *Mays I* by equal division in *Mays v Governor (Mays II)*, 506 Mich 157, 186 (2020), but because we found that questions of fact remained, we declined to prematurely consider whether any exceptions to the notice requirements applied.

In *Mays II*, I wrote separately to express my belief that the fraudulent-concealment exception of MCL 600.5855 tolls the statutory notice period of MCL 600.6431(1). *Id*. at 209 (BERNSTEIN, J., concurring). While the Court of Claims Act does not expressly incorporate MCL 600.5855, I noted that if the fraudulent-concealment exception could not be applied to toll the statutory notice period of MCL 600.6431 when a claim was fraudulently concealed from a plaintiff for more than six months, a plaintiff's otherwise actionable claim would thus always fail on notice grounds. *Id*. at 209-210. Such a circumstance—where a government actor manipulates a procedural nuance to run the clock on a plaintiff's otherwise justiciable claim—would run afoul of the purpose of the Court of Claims Act, which is to allow injured people to bring suit against the government. See *Christie*, 511 Mich at 57 (explaining that the Court of Claims Act is a "limited waiver of the state's sovereign immunity from suit"). To hold that the Legislature barred only non-governmental actors from benefiting from their own fraud would be more than a little disturbing, especially given that the language of the relevant statutes does not require such a conclusion. I continue to stand by my previous position.

Justice ZAHRA dissents from the denial order in this case, as he also stands by the position he staked out in *Mays II*, where he agreed with Justice MARKMAN that the fraudulent-concealment exception of MCL 600.5855 cannot toll the statutory notice provision of MCL 600.6431(1). He purports to find additional support for this position in *Christie*, where we explained that by amending MCL 600.6431(1) to add both the phrase "[e]xcept as otherwise provided in this section" as well as an exception for claims brought under the Wrongful Imprisonment Compensation Act (WICA), MCL 691.1751 *et seq*., the Legislature "was clear that the only exception to MCL 600.6431(1)'s notice requirement

is contained 'in this section'—in other words, in MCL 600.6431." *Christie*, 511 Mich at 53, citing MCL 600.6431(5). Accordingly, Justice ZAHRA concludes that "the *only* exception to the notice requirement expressed in MCL 600.6431 is the exception for WICA claims found in MCL 600.6431(5)."

Unlike Justice ZAHRA, I do not believe that the amendments of MCL 600.6431(1) or this Court's interpretation in *Christie* forecloses application of MCL 600.5855 to MCL 600.6431(1). A plain reading of MCL 600.6431(1) reveals that the Legislature had intended to exempt a certain class of cases—WICA causes of action—from the required notice provision. This language merely reflects that WICA claims are the one situation in which notice is *not* required to be provided to the government prior to the plaintiff's filing of suit. No more, no less. To use this language to prohibit application of the fraudulent-concealment exception of MCL 600.5855 to all other claims brought against the state is not supported by a plain reading of the statute as a whole.

I believe that the fraudulent-concealment exception of MCL 600.5855 tolled the one-year notice period of MCL 600.6431(1) for plaintiffs' claims. This conclusion is faithful to the statutory scheme, is not inconsistent with our decision in *Christie*, and fulfills the Legislature's intent to provide claimants whose claims were concealed by deceitful defendants the ability to litigate their otherwise justiciable claims. Accordingly, I join in this Court's decision to deny leave in this case.

WELCH, J., joins the statement of BERNSTEIN, J.

WELCH, J. (*concurring*).

Plaintiffs Amy McCormick and Robert McCormick are former law professors who allege that the Michigan State University College of Law—formerly known as the Detroit College of Law (DCL)[1]—breached agreements relating to their employment in 2019. In 2018, defendant Michigan State University (MSU) purchased Detroit College of Law (DCL) and assumed its liabilities. Plaintiffs allege that MSU fraudulently concealed its assumption of DCL's liabilities from plaintiffs. For that reason, they did not sue MSU until September 2022—four months after discovering the alleged fraudulent concealment.

This appeal asks whether plaintiffs complied with the Court of Claims Act's one-year notice requirement, MCL 600.6431(1). In the proceedings below, the Court of Claims and the Court of Appeals correctly applied binding precedent, *Mays v Governor*, 323 Mich App 1, 43-44 (2018) (*Mays I*), to hold that the alleged fraudulent concealment tolled the

[1] Although DCL changed its name to Michigan State University College of Law before the events that gave rise to this litigation, I refer to it as DCL to remain consistent with the Court of Appeals' opinion.

statutory notice requirement. I take no issue with that holding. I write separately to observe that the matter could also be resolved on alternative and arguably simpler grounds: plaintiffs' claims did not accrue until they discovered the fraudulent concealment in May 2022. And because plaintiffs filed their complaint four months after the accrual date, they satisfied the one-year statutory notice requirement. See MCL 600.6431(1).

I. BACKGROUND

Plaintiffs served as tenured professors at DCL. In 2013, they negotiated away their tenure rights. Robert retired and, in exchange, DCL provided him with special retirement benefits. For her part, Amy agreed to remain on the DCL faculty as a professor emerita and to teach one course per academic year. DCL agreed to provide Amy with the same employee healthcare coverage it provided to her when she served as a tenured faculty member.[2]

As plaintiffs negotiated with DCL over their tenure rights, DCL and MSU were negotiating a merger or asset transfer. In October 2018, those negotiations bore fruit: MSU and DCL executed a memorandum of understanding that MSU would purchase DCL. Through that memorandum of understanding, DCL agreed to terminate its employees on December 31, 2019, and MSU agreed to offer those employees contracts beginning on January 1, 2020. Amy declined MSU's employment offer, arguing that it violated plaintiffs' 2013 contracts. In response, DCL terminated Amy's employment on December 31, 2019.

Unbeknownst to plaintiffs, MSU and DCL also signed an asset-transfer agreement on December 12, 2019. That agreement provided that DCL would convey all of its assets to MSU and that MSU would assume all of DCL's liabilities and obligations.

Plaintiffs allege that DCL and MSU employees fraudulently told them that MSU would not assume DCL's liabilities. Based upon those assurances, plaintiffs sued DCL, then a private entity, in the Ingham Circuit Court. The circuit court dismissed that matter in mid-2022, holding that plaintiffs could not sue DCL because DCL had dissolved.

Plaintiffs allege that they did not learn about the asset-transfer agreement until May 2022. Four months after learning about the agreement, plaintiffs sued MSU in the Court of Claims. MSU moved for summary disposition, arguing that plaintiffs failed to comply with the Court of Claims Act's one-year notice requirement, MCL 600.6431(1). The Court of Claims denied that motion, holding that under *Mays I*, 323 Mich App at 43-44, the

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[2] This lawsuit primarily concerns Amy's contract. Robert is a plaintiff because he argues that among the consideration for his agreement to retire was Amy's continued employment at DCL.

alleged fraudulent concealment tolled the statutory notice requirement. The Court of Appeals majority affirmed in an unpublished per curiam opinion. *McCormick v Mich State Univ*, unpublished per curiam opinion of the Court of Appeals, issued January 10, 2025 (Docket No. 367598). MSU's application to this Court for leave to appeal followed.

II. DISCUSSION

The Court of Claims Act's notice requirement provides that:

> 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. [MCL 600.6431(1).]

A plaintiff's failure to comply with that notice requirement "provides a complete defense in an action against the state or one of its departments." *Fairley v Dep't of Corrections*, 497 Mich 290, 292 (2015).

At issue in this case is whether fraudulent concealment tolls the statutory notice requirement. " 'Fraudulent concealment means employment of artifice, planned to prevent inquiry or escape investigation, and mislead or hinder acquirement of information disclosing a right of action. The acts relied on must be of an affirmative character and fraudulent.' " *Reserve at Heritage Village Ass'n v Warren Fin Acquisition, LLC*, 305 Mich App 92, 122 (2014), quoting *Doe v Roman Catholic Archbishop of the Detroit Archdiocese*, 264 Mich App 632, 642 (2004). MCL 600.5855 governs claims impeded by fraudulent concealment. The statute provides that:

> If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations. [MCL 600.5855.]

In *Mays I*, the Court of Appeals held that MCL 600.5855 tolls the Court of Claims Act's notice requirement. See *Mays I*, 323 Mich App at 43-44. That published opinion bound the Court of Claims and the Court of Appeals in this case to hold that MSU's alleged

fraudulent concealment tolled the notice requirement.[3] For that reason, I take no issue with the opinions of the Court of Claims and the Court of Appeals majority.[4]

I write separately to explain that there is another, arguably simpler reason to hold that plaintiffs complied with the statutory notice requirement: their claims did not accrue until May 2022. Accordingly, tolling was not necessary.

The general accrual statute for civil actions provides that:

> Except as otherwise expressly provided, the period of limitations runs from the time the claim accrues. The claim accrues at the time provided in sections 5829 to 5838, and in cases not covered by these sections the claim

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[3] We affirmed all but one aspect of *Mays I* by equal division in *Mays v Governor*, 506 Mich 157, 167 (2020) (*Mays II*). *Mays II* consists of five separate opinions, and the lead opinion declined to address whether fraudulent concealment tolls the Court of Claims Act's notice requirement. In a concurring opinion, Justice BERNSTEIN opined that *Mays I* held correctly that fraudulent concealment tolls the notice requirement. *Id*. at 209-210 (BERNSTEIN, J., concurring). I agree with the analysis set forth in *Mays I* and in Justice BERNSTEIN's *Mays II* concurrence. I also agree with—and join—Justice BERNSTEIN's concurring statement in this matter. In that statement, Justice BERNSTEIN argues persuasively that neither our opinion in *Christie v Wayne State Univ*, 511 Mich 39 (2023), nor the Legislature's amendments of MCL 600.6431(1) affect the validity of the analysis set forth in *Mays I* and Justice BERNSTEIN's *Mays II* concurrence.

[4] Dissenting, Judge M. J. KELLY argued that *Mays I* did not apply in this case because plaintiffs failed to state a claim for fraudulent concealment. To support that argument, the dissent relied on a single conclusory and unsupported sentence from *Doe*, 264 Mich App at 641, which stated that "only actions after the alleged injury could have concealed plaintiff's causes of action against defendant because actions taken before the alleged injury would not have been capable of concealing causes of action that did not yet exist." See *McCormick* (KELLY, M. J., dissenting), unpub op at 2. Based upon that sentence, the dissent argued that plaintiffs failed to state a claim for fraudulent concealment because the alleged fraudulent concealment occurred *before* the alleged breach. See *id*.

Doe does not control. As the Court of Appeals recognized in *Hope-Jackson v Washington*, 311 Mich App 602, 618 n 3 (2015), *Doe* concerned a plaintiff who "claimed that the cause of action had been concealed and made no claim that" the defendant's *identity* "had been concealed." *Hope-Jackson* limited *Doe* to situations in which a defendant conceals a *cause of action*, rather than a liable party's *identity*. See *id*. Because plaintiffs in this case allege that MSU concealed the liable party's identity, the Court of Appeals dissent's reliance on *Doe* was misplaced. See *id*.

> accrues at the time the wrong upon which the claim is based was done regardless of the time when damage results. [MCL 600.5827.]

We have explained that "the date of the 'wrong' referred to in MCL 600.5827 is 'the date on which the defendant's breach harmed the plaintiff, as opposed to the date on which defendant breached his duty.' " *Frank v Linkner*, 500 Mich 133, 150 (2017), quoting *Moll v Abbott Laboratories*, 444 Mich 1, 12 (1993). Therefore, to determine when a claim accrues, the Court must generally "determine the date on which plaintiffs first incurred the harms they assert." *Frank*, 500 Mich at 150.

At common law, courts would sometimes apply a discovery-based analysis for accrual. See *McLain v Roman Catholic Diocese of Lansing*, 514 Mich 1, 14 (2024). We ended that practice in *Trentadue v Buckler Automatic Lawn Sprinkler Co*, 479 Mich 378 (2007). We have recognized, however, "that statutory discovery rules, such as MCL 600.5855 concerning fraudulently concealed claims, 'exclusively authorize discovery-based tolling under certain circumstances.' " *McLain*, 514 Mich at 15, quoting *Trentadue*, 479 Mich at 398. Thus, although "the discovery rule no longer applies to claims subject to the general accrual statute or to other accrual statutes that do not include this concept," it still applies under the fraudulent concealment statute. *McLain*, 514 Mich at 15 & n 9. See also *Trentadue*, 479 Mich at 391 ("MCL 600.5855 provides for essentially unlimited tolling based on discovery when a claim is fraudulently concealed.").

In short, plaintiffs' claims did not accrue until they discovered the alleged fraudulent concealment in May 2022. And because plaintiffs filed their complaint four months later, they satisfied the Court of Claims Act's notice requirement.[5] See MCL 600.6431(1). Accordingly, tolling was not necessary.

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[5] Dissenting, Justice ZAHRA takes issue with my reliance on *McLain*. First, he writes that "[t]he focal point of the Court's analysis in *McLain* was MCL 600.5851b(1)(b), not MCL 600.5855." Although Justice ZAHRA is correct that the facts in *McLain* implicated MCL 600.5851(1)(b), we opined that our analysis also applied to MCL 600.5855. See *McLain*, 514 Mich at 15 n 9 ("[T]he Legislature has explicitly provided for discovery rules in some contexts. Among them are actions alleging medical malpractice, MCL 600.5838a(2), actions brought against certain defendants alleging injuries from unsafe property, MCL 600.5839(1)(b), and actions alleging fraudulent concealment of the claim or the identity of any person who is liable for the claim, MCL 600.5855."). Second, Justice ZAHRA asserts that even if the discovery rule applies to MCL 600.5851b(1)(b), it does not apply to MCL 600.5855 because the two statutes are structured differently. As we wrote in *McLain*, however, "the language in MCL 600.5851b(1)(b) is virtually indistinguishable from the codification of a discovery rule in MCL 600.5855, concerning fraudulent concealment." *Id*. at 20. Finally, and relatedly, Justice ZAHRA argues that "MCL 600.5855 quite clearly contemplates that it applies where there is fraudulent concealment *after* a claim accrues."

HOOD, J., joins the statement of WELCH, J.

ZAHRA, J. (*dissenting*).

I dissent from the majority's decision to deny leave to appeal. The Court of Appeals applied its decision in *Mays v Governor (Mays I)*[1] to conclude that the fraudulent-concealment exception in MCL 600.5855—a provision of the Revised Judicature Act (RJA)[2]—is capable of tolling the one-year statutory notice provision set forth in MCL 600.6431, which is part of the Court of Claims Act (COCA).[3] The Court of Appeals majority then went on to hold that a genuine issue of material fact exists as to whether that exception applies under the facts of this case. In keeping with my position in *Mays v Governor (Mays II)*,[4] I instead conclude that the fraudulent-concealment exception cannot toll the one-year statutory notice provision. This conclusion is mandated by the plain language of MCL 600.6431 and by this Court's recent decision in *Christie v Wayne State Univ*,[5] in which this Court unanimously opined that the only exception to the notice requirement in MCL 600.6431(1) is contained within the text of MCL 600.6431 itself. Given my conclusion that MCL 600.5855 does not apply to MCL 600.6431, I need not consider whether the alleged facts support its application in this case. Plaintiffs failed to comply with MCL 600.6431's notice requirement, and defendant is therefore entitled to summary disposition. Accordingly, I would reverse the judgment of the Court of Appeals.

I. BACKGROUND

Plaintiffs Amy McCormick and Robert McCormick were employed as law professors by Michigan State University College of Law or Detroit College of Law (DCL) before it merged with defendant, Michigan State University (MSU). In April 2013, the parties negotiated terms whereby Robert McCormick agreed to retire and Amy McCormick agreed to continue as a professor emerita. On December 31, 2019, however, all DCL

But MCL 600.5855 never mentions claim accrual. Instead, it refers to the "existence of a claim," without any reference to whether fraudulent concealment tolls claim accrual.

[1] *Mays v Governor*, 323 Mich App 1 (2018) *(Mays I)*.

[2] MCL 600.101 *et seq*.

[3] MCL 600.6401 *et seq*.

[4] *Mays v Governor*, 506 Mich 157 (2020) *(Mays II)*.

[5] *Christie v Wayne State Univ*, 511 Mich 39 (2023).

employees were terminated, and MSU provided an opportunity for these employees to be hired as MSU employees the next day. Amy McCormick declined the offer.

Plaintiffs then brought a breach-of-contract action against MSU regarding their original employment contracts with DCL. MSU moved for summary disposition, arguing that it has governmental immunity because plaintiffs did not file their notice of intent to bring a claim within one year of the accrual of their claim, as is required by MCL 600.6431. Plaintiffs responded that the notice period set forth in MCL 600.6431 was tolled under MCL 600.5855 because MSU fraudulently concealed an agreement that MSU would assume DCL's liabilities by failing to notify plaintiffs of its existence until May 2022.

The Court of Claims initially ruled that silent fraud was insufficient to demonstrate fraudulent concealment but allowed plaintiffs to amend their complaint to establish the fraudulent concealment. After the amendment, MSU renewed its motion for summary disposition, which the Court of Claims denied, ruling that the allegations in plaintiffs' complaint, taken as true, supported a claim for fraudulent concealment that would toll the statutory notice period under MCL 600.5855. MSU moved for reconsideration, which the Court of Claims denied.

MSU then appealed in the Court of Appeals, which affirmed the Court of Claims in an unpublished per curiam opinion. The Court of Appeals majority held that a genuine issue of material fact existed regarding whether MSU's representatives fraudulently misrepresented its liability for DCL's contractual obligations and whether plaintiffs relied on those misrepresentations when filing their claim against MSU more than one year after their claim accrued. The dissenting judge accepted the premise that the fraudulent-concealment exception may apply to toll MCL 600.6431's notice period but believed that plaintiffs failed to state a claim for fraudulent concealment under MCL 600.5855. Defendant sought leave to appeal in this Court, and we ordered oral argument on the application.

II. ANALYSIS

At issue is whether the fraudulent-concealment exception set forth in MCL 600.5855 applies to the statutory notice period in MCL 600.6431(1). The Court of Appeals, relying on its opinion in *Mays I*, accepted that it does, and proceeded to hold that the facts as alleged by plaintiffs supported its application in this case. I would reverse the judgment of the Court of Appeals, because I conclude that the fraudulent-concealment provision does not apply to toll the notice requirement contained in MCL 600.6431.

MCL 600.6431 states, in pertinent 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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> * * *
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> (5) This section does not apply to a claim for compensation under the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

This language of MCL 600.6431 is broad and unambiguous—"[e]xcept as otherwise provided *in this section*, *a claim may not be maintained against this state*"[6] unless the claimant files a written claim or written notice of intention to file a claim with the clerk of the Court of Claims within one year after the claim has accrued.

As this Court unanimously explained in *Christie*,[7] MCL 600.6431 creates a condition precedent to suing the state in the Court of Claims and avoiding the application of governmental immunity. *Christie* held that "the notice requirements of MCL 600.6431(1) apply to all claims against the state, including those filed in the circuit court, *except as otherwise exempted in MCL 600.6431 itself*."[8] The Court reasoned that "[s]atisfaction of the rules of the forum for the Court of Claims, including the notice requirement, was mandatory to overcome the state's sovereign immunity,"[9] and, as this Court previously held, a plaintiff's failure to comply with the notice requirement of MCL 600.6431 "provides a complete defense in an action against the state or one of its departments."[10]

At issue in this case is whether the Court of Appeals is correct that the fraudulent-concealment exception set forth in MCL 600.5855 can apply to toll the notice requirement in MCL 600.6431. MCL 600.5855 states:

> If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the

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[6] Emphasis added.

[7] See *Christie*, 511 Mich at 51.

[8] *Id*. at 45 (emphasis added).

[9] *Id*. at 61-62.

[10] *Fairley v Dep't of Corrections*, 497 Mich 290, 292 (2015).

> claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.

This provision of the RJA allows for the tolling of a statutory limitations period for two years if a defendant has fraudulently concealed the existence of a claim for which that defendant is liable. When relying on this exception, a plaintiff "must plead in the complaint the acts or misrepresentations that comprised the fraudulent concealment" and "prove that the defendant committed affirmative acts or misrepresentations that were designed to prevent subsequent discovery."[11]

The Court of Appeals previously considered the interplay between MCL 600.5855 and MCL 600.6431 in *Mays I*. In that case, the plaintiffs alleged an inverse-condemnation claim and constitutional claims against the state and several agencies following the change in the source of drinking water for the city of Flint. The defendants moved for summary disposition, arguing that the plaintiffs failed to comply with the notice requirement in MCL 600.6431, and the Court of Claims denied the defendants' motion. The Court of Appeals affirmed, reasoning that the Legislature clearly intended to incorporate MCL 600.5855 into the COCA and that "read[ing] MCL 600.5855, as imported into the [COCA], and MCL 600.6431 in harmony require[d] the conclusion that when the fraudulent-concealment exception applies, it operates to toll the statutory notice period as well as the statutory limitations period."[12]

This Court affirmed the Court of Appeals by equal division in *Mays II*.[13] Given this Court's holding that questions of fact remained as to when the plaintiffs sustained their injuries and thus when their claims accrued, the Court did not consider whether MCL 600.5855 tolls the notice period in MCL 600.6431. But Justice BERNSTEIN and Justice MARKMAN authored separate opinions addressing this issue. Justice BERNSTEIN opined that the fraudulent-concealment exception applies to toll the statutory notice period because "the omission of a fraudulent-concealment exception to MCL 600.6431 is not reconcilable with the Legislature's intent to provide claimants with two years from the date of discovery to bring suit for harm that was fraudulently concealed, as expressed in MCL 600.6452(2)."[14]

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[11] *Sills v Oakland Gen Hosp*, 220 Mich App 303, 310 (1996).

[12] *Mays I*, 323 Mich App at 43-44.

[13] *Mays II*, 506 Mich 157.

[14] *Id*. at 209 (BERNSTEIN, J., concurring).

I continue to fully agree with Justice MARKMAN's response to Justice BERNSTEIN and with Justice MARKMAN's resulting conclusion that "[t]he fraudulent-concealment statute only constitutes an exception to *statutes of limitations* and does not constitute an exception to the statutory notice provision at issue here."[15] As Justice MARKMAN stated:

> The fraudulent-concealment statute itself asserts that it allows an action to be brought under certain circumstances "although the action would otherwise be barred by the period of limitations," MCL 600.5855; it does not state that an action can be brought although the action would otherwise be barred by the statutory notice provision. Therefore, the fraudulent-concealment statute simply does not pertain in the present context. . . .
>
> This is further evidenced by the fact that the Legislature incorporated the fraudulent-concealment exception into the statute-of-limitations provision of the [COCA], but not into its statutory notice provision. MCL 600.6452(1) of the [COCA] provides that the statute of limitations is three years in an action against the state. MCL 600.6452(2) of the [COCA] provides that "[e]xcept as modified by this section, the provisions of RJA chapter 58, relative to the limitation of actions, shall also be applicable to the limitation prescribed in this section." The fraudulent-concealment statute, MCL 600.5855, is a "provision[] of RJA chapter 58, relative to the limitation of actions," and thus is applicable to the statute-of-limitations provision of the [COCA]. On the other hand, the statutory notice provision of the [COCA] does not similarly incorporate the fraudulent-concealment statute. Given that the Legislature chose to incorporate the fraudulent-concealment statute into the statute of limitations but not into the statutory notice provision, we should presume absent evidence to the contrary that this was purposeful and should not summarily incorporate the fraudulent-concealment statute where it has not been placed by the lawmaking body of our state government.[16]

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[15] *Id*. at 283 (MARKMAN, J., dissenting).

[16] *Id*. at 283-284. Expounding on this reasoning, MCL 600.6431 is not a statute of limitations. In *Frank v Linkner*, 500 Mich 133, 142 (2017), quoting *Black's Law Dictionary* (10th ed), this Court defined a "statute of limitations" as a " 'law that bars claims after a specified period; specif[ically], a statute establishing a time limit for suing in a civil case, based on the date when the claim *accrued*.' " Under this definition, MCL 600.6431 is not a statute of limitations because it does not establish a time limit for suing the state; MCL 600.6431 instead sets a deadline by which a claimant must provide notice to the state. Indeed, the COCA contains its own statute of limitations in MCL 600.6452.

Justice MARKMAN also rejected the concurrence's argument that failing to read a fraudulent-concealment exception into the statutory notice provision would result in entirely reading out MCL 600.6452(2), the COCA's statute-of-limitations provision, opining that

> MCL 600.6452(2) does more than incorporate the fraudulent-concealment statute into the statute-of-limitations provision of the Court of Claims Act; rather, it incorporates *all* the "provisions of RJA chapter 58, relative to the limitation of actions" into the statute-of-limitations provision of the Court of Claims Act. Therefore, failing to read a fraudulent-concealment exception into the statutory notice provision of the Court of Claims Act would not "entirely" result in reading out MCL 600.6452(2).[17]

This analysis is sound and equally applicable to the dispute before us.

This Court's recent opinion in *Christie*, unaddressed by the Court of Appeals in this case, reinforces this conclusion. As explained in *Christie*, in 2020, the Legislature added to MCL 600.6431(1) the words "[e]xcept as otherwise provided in this section" while simultaneously adding Subsection (5), which states that MCL 600.6431 "does not apply to a claim for compensation under the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1751 to 691.1757 [(WICA)]."[18] As this Court unanimously stated in *Christie*, "With this language, the Legislature was clear that the only exception to MCL 600.6431(1)'s notice requirement is contained 'in this section'—in other words, in MCL 600.6431."[19] Therefore, the *only* exception to the notice requirement expressed in MCL 600.6431 is the exception for WICA claims found in MCL 600.6431(5). To read into MCL 600.6431 an exception for claims involving fraudulent concealment under MCL 600.5855 would not only improperly insert words into MCL 600.6431, but would essentially render its "in this section" language meaningless.[20] The Court of Appeals in this case therefore departed from both this Court's holding in *Christie* and the Legislature's policy choice as expressed through the plain language of MCL 600.6431 by reading an additional exception

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Accordingly, the time periods set forth in MCL 600.6431 cannot be subject to tolling under MCL 600.5855, which by its plain language applies only to the applicable "period of limitations."

[17] *Mays II*, 506 Mich at 285 n 12 (MARKMAN, J., dissenting).

[18] See *Christie*, 511 Mich at 49 & n 23.

[19] *Id*. at 53.

[20] See *Aspey v Mem Hosp*, 477 Mich 120, 131 (2007) ("A statute is rendered nugatory when an interpretation fails to give it meaning or effect.").

into the language of MCL 600.6431. As emphasized in *Christie*, MCL 600.6431 means what it says—*all* claims against the state, except those exempted in MCL 600.6431, must comply with the notice requirement.

Plaintiffs do not convincingly distinguish *Christie*, but instead make a rather superficial argument that, because the fraudulent-concealment provision of MCL 600.5855 and the COCA are both part of the RJA, they must be read *in pari materia*, and the RJA's fraudulent-concealment provision therefore applies to the COCA. But this argument effectively imports an extra-statutory exception into the COCA, expanding the list of exceptions beyond the Legislature's sole carveout for WICA claims in MCL 600.6431. Tellingly, the RJA (and thus MCL 600.5855) is incorporated in MCL 600.6452 of the COCA, which sets forth the applicable statute of limitations.[21] To read MCL 600.5855 (or other provisions of the RJA) into MCL 600.6431 would undermine the Legislature's intentional choice to incorporate sections of the RJA in certain provisions of the COCA, but not others. For these reasons, I conclude that MCL 600.5855 is incapable of tolling MCL 600.6431's notice period.

The contrary conclusion seriously erodes the state's sovereign immunity from direct suit. As explained by the Attorney General as amicus curiae, the Court of Appeals essentially grafted a savings provision onto MCL 600.6431, despite this Court's repeated warning that "when the Legislature specifically qualifies the ability to bring a claim against the state or its subdivisions on a plaintiff's meeting certain requirements that the plaintiff fails to meet, no saving construction . . . is allowed."[22] And in theory, this savings clause could apply to all claims against the state going forward merely by a pleading of fraudulent concealment. Yet a majority of this Court today denies leave to appeal without endorsing Justice BERNSTEIN's reasoning in *Mays II* or otherwise weighing in on the jurisprudentially significant question of whether MCL 600.5855 tolls the notice provision of MCL 600.6431. I would take this opportunity to clarify the law and answer this question in the negative.

III. CONCLUSION

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[21] See MCL 600.6452(2) ("Except as modified by this section, chapter 58, relative to the limitation of actions, also applies to the limitation under this section.").

[22] *McCahan v Brennan*, 492 Mich 730, 746 (2012). As further explained by the Attorney General, the Court of Appeals did not attempt to apply any portion of MCL 600.6431 to MCL 600.5855, such as allowing plaintiff one year from discovery of the alleged fraudulent concealment to comply with the COCA's notice requirement, mirroring the one-year requirement set forth in that statute. The Court of Appeals instead appears to have afforded plaintiffs a full two years from their alleged discovery of the fraudulent concealment.

I conclude that MCL 600.5855's fraudulent-concealment exception cannot toll MCL 600.6431's notice provision.[23] Given this conclusion, I need not consider whether

[23] In her concurrence, Justice WELCH opines that MCL 600.5855 tolls the accrual date rather than the statute of limitations. Accordingly, she concludes that plaintiffs' claims did not accrue until they discovered the alleged fraudulent concealment in May 2022, meaning their complaint was timely filed under MCL 600.6531(1). I disagree with Justice WELCH. In my opinion, MCL 600.5855 does not function as a discovery-based accrual statute in this case.

This Court has on numerous occasions held that MCL 600.5855 tolls the *statute of limitations*. See *Trentadue v Buckler Lawn Sprinkler*, 479 Mich 378, 388 (2007) ("The [RJA], at . . . [MCL] 600.5855, provides for tolling of the period of limitations in certain specified situations."); see also *Frank v Linkner*, 500 Mich 133, 147 (2017) ("[T]he running of a statutory period of limitations may be tolled pursuant to . . . MCL 600.5855[.]"). Indeed, MCL 600.5855 explicitly refers to a party bringing an action that would "otherwise be barred *by the period of limitations*." (Emphasis added.) In concluding that MCL 600.5855 tolls the accrual date, the concurrence cites our recent decision in *McLain v Roman Catholic Diocese of Lansing*, 514 Mich 1, 16 (2024), in which a majority of this Court held that MCL 600.5851b(1)(b)—which provides that a plaintiff "may commence an action . . . at any time before . . . [t]hree years after the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct"—is a "discovery rule" that changes the accrual date for minor victims of criminal sexual conduct, not an alteration of the statute of limitations. The focal point of the Court's analysis in *McLain* was MCL 600.5851b(1)(b), not MCL 600.5855. I do not believe that MCL 600.5855 functions as an accrual tolling statute for the same reasons that I did not believe MCL 600.5851b(1)(b) functions as such a statute, as expressed in my separate opinion in *McLain*. Plaintiffs' contract claim against defendant does not fall under MCL 600.5829 through MCL 600.5838. Therefore, plaintiffs' claim against defendant accrued "at the time the wrong upon which the claim is based was done regardless of the time when damage results." MCL 600.5827. I see no language in MCL 600.5855 that alters the general rule of accrual in MCL 600.5827.

Moreover, MCL 600.5855 is structured differently than MCL 600.5851b(1)(b); in my view, MCL 600.5855 quite clearly contemplates that it applies where there is fraudulent concealment *after* a claim accrues. And again, unlike MCL 600.5815b(1)(b), MCL 600.5855 explicitly refers to permitting an action that would "otherwise be barred by the period of limitations," suggesting that it tolls the limitations period. Furthermore, even if MCL 600.5855 could function as a discovery accrual provision in some instances, for the reasons I have already articulated, MCL 600.5855 simply does not apply to MCL 600.6431. It is notable that the Legislature incorporated the fraudulent-concealment exception into the statute-of-limitations provision of the COCA, MCL 600.6452(1), but not into its

MCL 600.5855 is applicable under the facts of this case. Plaintiffs failed to comply with MCL 600.6431, and defendant is therefore entitled to summary disposition. Accordingly, I would reverse the judgment of the Court of Appeals.

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statutory notice provision. Finally, even if MCL 600.5855 could apply to toll the accrual date in this case, I tend to agree with the Court of Appeals dissent that it would not apply to the facts of this case.