STATE OF MICHIGAN

COURT OF CLAIMS

MICHAEL HEATH, as Personal Representative of the Estate of GERARD HEATH,

Plaintiff,

v

Case No. 26-000128-MZ

UNIVERSITY OF MICHIGAN HEALTH SYSTEM,

Hon. Randy J. Wallace

Defendant.
_____ /

OPINION AND ORDER DENYING DEFENDANT'S 7/31/26 MOTION FOR SUMMARY DISPOSITION

Plaintiff Michael Heath, as Personal Representative of the Estate of Gerard Heath, filed this medical malpractice action against defendant University of Michigan Health System (the University) and several healthcare providers in Washtenaw Circuit Court. In relevant part, plaintiff alleged that the University was directly and vicariously liable for the healthcare providers' negligent treatment of Gerard Heath that resulted in his death on November 15, 2023. The claims against the University were transferred to this Court on June 8, 2026.

On July 31, 2026, the University moved for summary disposition, asserting that the claims against the University must be dismissed because plaintiff failed to comply with the notice requirements of the Court of Claims Act (COCA), MCL 600.6401 *et seq*. Under Court of Claims LCR 2.119(C)(2), plaintiff's response to the motion had to be filed and served within 14 days of July 31. Plaintiff has not responded to the motion. "The failure to file a response to a motion will

result in the treatment of the motion as uncontested." LCR 2.119(C)(3). The University's motion is, therefore, treated as uncontested.

The University argues that this action must be dismissed because plaintiff did not file a notice of intent or a claim within six months of the event that gives rise to the claim as required by MCL 600.6431(4) of the COCA. Summary disposition under MCR 2.116(C)(7) is appropriate when "immunity granted by law" bars the plaintiff's claims. In assessing a motion under that rule, the Court must review the "affidavits, pleadings, and other documentary evidence," to determine whether immunity applies as a matter of law. *McLean v Dearborn*, 302 Mich App 68, 72-73; 836 NW2d 916 (2013). If "no facts are in dispute" and if "reasonable minds could not differ regarding the legal effect of those facts, whether the claim is barred is an issue of law for the court." *Dextrom v Wexford Co*, 287 Mich App 406, 429; 789 NW2d 211 (2010). Immunity is the applicable defense when a governmental entity seeks summary disposition for failure to comply with the notice requirements of the COCA. *McCahan v Brennan*, 492 Mich 730, 736-738; 822 NW2d 747 (2012).

A claim against the state for personal injuries may not be maintained unless the claimant, within six months after the event that gives rise to the claim, files with the clerk of this Court either a written claim or a written notice of intention to file the claim. The Court takes judicial notice of the documents filed with the clerk of this Court. Plaintiff filed a properly verified notice of intent to file a claim with the clerk of this Court on May 10, 2024—within six months after the event that gives rise to the claims. Despite the uncontested nature of the University's motion, the Court cannot grant summary disposition to the University on the basis of the notice provisions of the COCA. The Court therefore DENIES defendant's motion.

IT IS SO ORDERED. This order does not resolve the last pending claim and does not close the case.

Date: September 10, 2026

Hon. Randy J. Wallace
Judge, Court of Claims