

# Order

Michigan Supreme Court  
Lansing, Michigan

July 3, 2013

Robert P. Young, Jr.,  
Chief Justice

144783 & (54)

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

PATRICIA LEVINE, Personal  
Representative of the Estate of FREDERICK  
H. LEVINE, M.D., Deceased,  
Plaintiff/Counter-Defendant/  
Appellant,

v

SC: 144783  
COA: 299639  
Berrien CC: 2004-003060-CK

JAMES E. O'DORISIO, M.D.,  
Defendant/Counter-Plaintiff/  
Appellee.

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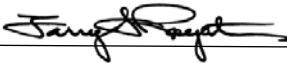
On order of the Court, the motion to substitute parties is GRANTED. The application for leave to appeal the November 17, 2011 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the Court of Appeals opinion holding that the trial court erred by failing to equally divide between the parties the profits from use of the vascular laboratory from the date of dissolution to the date of the sale of the laboratory. MCL 450.4404(5) is not applicable to this case. Instead, the division of the profits of the company are governed by the operating agreement, which provides that the PLLC "shall be dissolved" upon the occurrence of a withdrawal event. ¶12.1. Thus, the PLLC was dissolved on January 13, 2004, when the hospital and the defendant entered their memorandum of understanding making the defendant's loss of staff privileges permanent. The value of the PLLC should be assessed as of that date. The defendant is not entitled to any profits derived from the plaintiff's use of the laboratory between January 13, 2004, and the date that the laboratory was sold. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.



h0626

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 3, 2013

  
Clerk