

Order

Michigan Supreme Court
Lansing, Michigan

April 19, 2024

Elizabeth T. Clement,
Chief Justice

166191

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

KIM L. WILKERSON,
Plaintiff-Appellant,

v

SC: 166191
COA: 361263
Washtenaw CC: 21-001299-NH

CHELSEA CHIROPRACTIC CENTER and
JAMES G. DUNCAN, II, D.C.,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the August 24, 2023 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REMAND this case to the Washtenaw Circuit Court for further proceedings. The defendants moved for summary disposition under MCR 2.116(C)(7), arguing *only* that the plaintiff's medical malpractice claim was barred by the applicable statute of limitations due to his failure to file a timely and valid affidavit of merit (AOM). See MCL 600.2912(d). However, "[f]iling an AOM under MCL 600.2912d(1) is not required to commence a medical malpractice action and toll the statutory limitations period. Instead, the normal tolling rules apply to medical malpractice actions, and tolling occurs upon the filing of a timely served complaint." *Ottgen v Katranji*, 511 Mich 223, 228 (2023). It is undisputed that the plaintiff filed and served his complaint within the applicable statute of limitations for a medical malpractice action. Accordingly, the trial court properly denied the defendants' motion for summary disposition. Given the limited basis upon which the defendants sought summary disposition in the trial court, we need not address whether the defendants might be entitled to summary disposition on any other basis.



s0416

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.

April 19, 2024

Clerk