

# Court of Appeals, State of Michigan

## ORDER

Estate of Barbara Johnson v Robert F. Kowalski, MD

Jane E. Markey  
Presiding Judge

Docket No. 297066

Deborah A. Servitto

LC No. 07-020602-NH

Amy Ronayne Krause  
Judges

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The Court orders that the May 29, 2012, published per curiam opinion in this case is AMENDED in two respects.

First, the opening sentence of the first paragraph on page 6 is amended to read: "Following the trial court's advice, and as he did in his opening statement, plaintiff's counsel argued that the defense in this case was fabricated, that the Dr. Urse's affidavit indicated that there was no meeting between Dr. Urse and Dr. Kowalski, that Dr. Urse did not come to Mrs. Johnson's room between 2:53 and 3:00 p.m. as the two doctors testified."

Second, footnote 2 is added to the fourth sentence of the final paragraph on page 6 so that the sentence and footnote shall read:

Being inconsistent, plaintiff argues, the trial court should have admitted them for impeachment purposes.<sup>2</sup>

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<sup>2</sup> We note that MRE 411 plays no role in this decision. MRE 411 does not preclude evidence of liability insurance if introduced for relevant reasons other than proving a person acted negligently or otherwise wrongfully. Dr. Urse is not a party to this action. The communications between plaintiff's counsel and the insurance adjuster for Dr. Urse's insurer are admissible because they bear on Dr. Urse's credibility as a witness, not on his conduct on the day in question.

In all other respects, the May 29, 2012 opinion remains unchanged.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JUN 21 2012

Date

Larry S. Royster  
Chief Clerk