STATE OF MICHIGAN

COURT OF APPEALS

JESSICA MARTINEZ, a Minor, by her Next Friend, VICKIE MARTINEZ,

Plaintiff-Appellant,

and

BLUE CROSS BLUE SHIELD,

Intervening plaintiff,

v

HURON MEMORIAL HOSPITAL, HURON MEMORIAL HEALTH CARE CORPORATION d/b/a HURON MEMORIAL HOSPITAL, and T. TSAI, M.D.,

Defendants-Appellants

and

RONSON H. SHEA, M.D.,

Defendant.

UNPUBLISHED
September 23, 1997

No. 193301
Huron Circuit Court
LC No. 94-008798-NH

Before: Corrigan, C.J., and Michael J. Kelly and Hoekstra, JJ.

PER CURIAM.

Plaintiffs Jessica and Vickie Martinez appeal as of right the trial court's order denying their motion to set aside the order granting defendants' motion for summary disposition and to reinstate this medical malpractice action. We affirm.

Jessica Martinez was born in May 1978 by a procedure known as "frank breach extraction." The delivery was performed by Drs. Tsai and Shea at Huron Memorial Hospital, a subsidiary of Huron Memorial Healthcare Corp. Apparently, Jessica has suffered since birth from seizure disorders and developmental retardation. Vickie Martinez, Jessica's mother and next friend, filed this malpractice action against the doctors and the hospital, alleging that defendants were negligent in failing to provide reasonable medical care during the delivery, thus causing Jessica's injuries. The trial court granted all defendants' motions for summary disposition and to compel arbitration based on an arbitration agreement that Vickie Martinez signed four days after Jessica's birth, by which Vickie agreed to arbitrate any claim or dispute arising out of the hospital stay.

Plaintiffs motioned the trial court to set aside its orders granting defendants' motions for summary disposition and to reinstate the case, arguing that the repeals of the Medical Malpractice Arbitration Act ("MMAA"), MCL 600.5040 *et seq.*; MSA 27A.5040 *et seq.*, and Chapter 30A of the Insurance Code, MCL 500.3051 *et seq.*; MSA 13051 *et seq.*, invalidated the arbitration agreement. The trial court held that repeals of these statutes did not invalidate the arbitration agreement Vickie signed, and therefore denied plaintiffs' motion.

The sole question on appeal is whether 1993 repeals of the MMAA and the funding and implementation provisions of Chapter 30A of the Insurance Code, see 1993 PA 78 and 1993 PA 349, respectively, invalidated the arbitration agreement executed under the MMAA. In the consolidated cases of *Cox v Cottage Hospital Corporation* and *Hooten v Lathrop*, ___ Mich App ___; ___ NW2d ___ (Docket Nos. 189143 and 189795, rel'd 8/19/97), a panel of this Court considered this identical issue, stating:

> Having in mind that the arbitration agreements were valid under the MMAA; neither the statute repealing the MMAA nor the statute terminating funding for the [arbitration administration fund] expresses a legislative intent to abrogate or invalidate existing arbitration agreements; the repeal of the funding statute does not by implication mandate the invalidation of all unexecuted agreements because an alternative funding method is found in the MMAA; and the public policy of this state favors the enforcement of valid arbitration agreements, we conclude that the agreements are enforceable. [*Id.*, slip op at 7.]

By the terms of Administrative Order No. 1994-4, 445 Mich *xci* (1994), this Court must follow the rule of law established by the *Cox* and *Hooten* panel. Moreover, we are persuaded that the decision reached by that panel was correct. Accordingly, we hold that the trial court did not err in finding that the arbitration agreement was valid. Thus, the trial court did not err in granting defendants' motions for summary disposition and to compel arbitration.

Affirmed.

/s/ Maura D. Corrigan
/s/ Michael J. Kelly
/s/ Joel P. Hoekstra