

STATE OF MICHIGAN  
COURT OF APPEALS

---

DAVID DORSEY and RUBY DORSEY,

Plaintiffs-Appellees,

v

DR. ARUN TAVEE,

Defendant-Appellant,

and

HENRY FORD HOSPITAL, GRACE  
HOSPITAL and DR. REHANA N. KAPADIA,

Defendants.

---

UNPUBLISHED

June 9, 1998

No. 198618

Wayne Circuit Court

LC No. 96-619324 NH

Before: Bandstra, P.J., and MacKenzie and N.O. Holowka\*, JJ.

MEMORANDUM.

By leave granted, appellant Tavee appeals denial of his motion for summary disposition, grounded in plaintiffs' acknowledged failure to comply with the pre-suit notice requirements of MCL 600.2912b; MSA 27A.2912(2) in this medical malpractice action. We reverse. This case is being decided without oral argument pursuant to MCR 7.214(E). The motion to expedite, previously held in abeyance, is granted.

The circuit court determined that the cited statute is unconstitutional on a variety of grounds, all of which were considered and rejected in *Neal v Oakwood Hosp Corp*, 226 Mich App 701; \_\_\_ NW2d \_\_\_ (1997). The circuit court found no occasion to reach, nor do we, the question of whether other interim changes in the statutes governing medical malpractice actions can or cannot constitutionally be retroactively applied to claims that arose prior to the enactment of such statutes; any such issues are properly addressed only in the context of litigation arising from a complaint filed in conformity with the pre-suit notice requirements of RJA § 2912b.

\* Circuit judge, sitting on the Court of Appeals by assignment.

We reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Richard A. Bandstra  
/s/ Barbara B. MacKenzie  
/s/ Nick O. Holowka