

STATE OF MICHIGAN
COURT OF APPEALS

CHARLES F. ZIMMERMANN and SUSAN
ZIMMERMANN,

UNPUBLISHED
November 26, 2002

Plaintiffs-Appellants,

v

GARDEN CITY OSTEOPATHIC HOSPITAL,

No. 235032
Wayne Circuit Court
LC No. 01-108357-NH

Defendant-Appellee.

Before: Jansen, P.J., and Holbrook, Jr. and Cooper, JJ.

COOPER, J. (*concurring*).

I concur with my esteemed colleagues, but write to emphasize the phrase *constrained* to follow *Holmes v Michigan Capital Medical Center*, 242 Mich App 703; 620 NW2d 319 (2000).

There was a time in this state's jurisprudence when this type of motion would have been considered to be form over substance. The trial judge would have had the discretion to make such determinations in the interest of justice so that facially legitimate claimants had full access to the courts.

/s/ Jessica R. Cooper