

STATE OF MICHIGAN
COURT OF APPEALS

TAMISHA HOYE, Individually and as Next
Friend of COREY BATES, Minor,

Plaintiff-Appellant,

v

DMC/WSU and SINAI GRACE HOSPITAL,

Defendants,

and

VICTOR ADLAI, M.D.,

Defendant-Appellee.

UNPUBLISHED
January 28, 2010

No. 285780
Wayne Circuit Court
LC No. 04-407341-NH

Before: Gleicher, P.J., and Fitzgerald and Wilder, JJ.

WILDER, J., (*concurring*).

I agree with Judge Fitzgerald that the law of the case doctrine applies in the instant case, and that the only verdict in this case is the jury verdict of no cause of action with regard to Dr. Adlai. Therefore, I join in his opinion. I write separately only to state that if the law of the case doctrine did not apply in this case, I agree with Judge Gleicher's conclusion that plaintiff waived her right to a new trial involving Dr. Adlai by pursuing a default against the hospital and deliberately electing to allow the jury to decide whether Dr. Adlai had committed professional negligence.

/s/ Kurtis T. Wilder