

STATE OF MICHIGAN
COURT OF APPEALS

JAYNE LANIGAN,

Plaintiff-Appellant,

and

GREG LANIGAN,

Plaintiff,

v

HURON VALLEY HOSPITAL, INC. and
STEVEN D. BELEN,

Defendants-Appellees.

FOR PUBLICATION

March 3, 2009

No. 279799

Oakland Circuit Court

LC No. 2006-071779-NH

Advance Sheets Version

Before: Gleicher, P.J., and K. F. Kelly and Murray, JJ.

GLEICHER, P.J. (*concurring*).

I fully concur with the reasoning and result announced by the majority in this case. I write separately to observe that had the complaint articulated solely a lost-opportunity claim, it would be incumbent on this Court to invoke the conflict provisions of MCR 7.215(J). As my colleagues today acknowledge, all seven justices who decided *Stone v Williamson*, 482 Mich 144, 164; 753 NW2d 106 (2008) (opinion by Taylor, C.J.), rejected the analysis set forth in *Fulton v William Beaumont Hosp*, 253 Mich App 70; 655 NW2d 569 (2002). Because *Fulton*'s central holding clearly lacks the support of a majority of our Supreme Court, this Court should not hesitate to critically reexamine *Fulton* when presented with an appropriate case.

/s/ Elizabeth L. Gleicher