

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CAROL GRAGG, Personal Representative of the  
Estate of JEFFREY GRAGG, Deceased,

Plaintiff-Appellant,

v

AUBURN COUNSELING ASSOCIATES, INC.,  
DALE PETERSON, DR. Y.K. LEE, and DR.  
CHARLES WILLIAMS,

Defendants-Appellees,

and

ELENORE MARIE YOUNG,

Defendant-Not Participating.

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FRANCIS A. KRCMARIK, Conservator of the  
Estate of ELEANORE YOUNG,

Plaintiff-Appellant,

v

AUBURN COUNSELING ASSOCIATES, INC.,  
and DALE PETERSON a/k/a DALE  
PETTERSON,

Defendants-Appellees,

and

DR. Y.K. LEE,

Defendant,

and

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UNPUBLISHED  
June 25, 2002

No. 222882  
Genesee Circuit Court  
LC No. 97-059717-NI

No. 228860  
Genesee Circuit Court  
LC No. 97-059156-NH

DR. CHARLES WILLIAMS,

Not Participating.

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Before: Cavanagh, P.J., and Gage and Murray, JJ.

Murray, J. (concurring.)

I fully concur in the Court's opinion. I write separately, however, to express my view that had we not decided the issue of plaintiff Krcmarik's ability to recover damages for injuries Young received in the automobile accident on causation grounds, I would still hold that plaintiff Krcmarik would not be entitled to recover damages in the medical malpractice action for injuries which Young suffered as a result of the automobile accident because of the wrongful conduct rule. *Orzel v Sott Drug Co.*, 449 Mich 550; 537 NW2d 208 (1995). This is so because plaintiff Krcmarik would have to prove as part of the medical malpractice claim that an injury was suffered as a result of the alleged malpractice, MCL 600.2912a, and therefore, to recover damages associated with any injuries received in the automobile accident plaintiff Krcmarik by necessity would have to put into evidence the fact of the accident. As such, proof that Young was driving on a suspended license would be a part of the case, thus implicating the wrongful conduct rule. See *Poch v Anderson*, 229 Mich App 40, 44; 580 NW2d 456 (1998). The Supreme Court has not addressed this precise issue despite having the opportunity to do so, *Mathews v Wyant*, 465 Mich 853, 854; 629 NW2d 926 (2001) (Markman, J., dissenting), and this Court also had no need to address the issue in this case because this Court has concluded on other grounds that plaintiff Krcmarik is not entitled to recover *any* damages arising from Young's involvement in the car accident. Hence, I concur in the Court's opinion.

/s/ Christopher M. Murray