

STATE OF MICHIGAN
COURT OF APPEALS

JOHN D. RENSWICK, personal representative of
the estate of MARION RENSWICK,

Plaintiff-Appellant,

v

PROVIDENCE HOSPITAL AND MEDICAL
CENTERS, INC., a Michigan nonprofit
corporation,

Defendant-Appellee.

UNPUBLISHED
June 3, 2004

No. 244698
Oakland Circuit Court
LC No. 02-038057-NH

Before: Griffin, P.J., and White and Donofrio, JJ.

WHITE, J. (*concurring in part and dissenting in part.*)

The claimed malpractice was the nurse's failure to accurately account for the sponge. Sims was qualified to testify regarding this breach and the need for the second surgery to remove the sponge. Whether the second surgery was properly performed is not material, as long as it was the natural result of leaving the sponge. To the extent plaintiff's complaint and notice allege a breach of the standard by failing to accurately account for the sponge, and a resultant injury in the form of adhesions, the need to perform additional surgery which included the removal of parts of the small intestine, small bowel and large colon, and resulting pain and persistent diarrhea, I conclude the circuit court erred in dismissing the case.¹ I would reverse this aspect of the court's dismissal and remand for further proceedings.

The affidavit of merit wholly fails to address the claim that the second surgery resulted in an inability to proceed with cancer treatment, which lead to the spread of cancer and the patient's death. Further, Sims was not qualified to address these issues. As noted by the majority, *Geralds v Munson Healthcare*, 259 Mich App 225; 673 NW2d 792 (2003), requires that the dismissal of this aspect of plaintiff's case be affirmed.

/s/ Helene N. White

¹ I recognize that the case was initially dismissed for failure to file a response to the motion for summary disposition. However, plaintiff adequately explained the failure, and the court should have reached the merits on reconsideration.

