

**Court of Appeals, State of Michigan**

**ORDER**

Dorothy Creech v W A Foote Memorial Hospital Inc

Peter D. O'Connell  
Presiding Judge

Docket No. 237437; 237438; 237439; 237440; 237441; 237442;  
237443; 237444; 237445; 237446

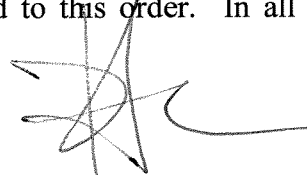
Kathleen Jansen

LC No. 00-005650-NO; 00-005711-NO; 00-005740-NZ; 00-  
005752-NH; 01-000755-NO

Christopher M. Murray  
Judges

---

The Court orders that the motion for reconsideration is GRANTED, and this Court's opinions issued June 8, 2004, are hereby AMENDED for the sole purpose of correcting the opinions' heading. The corrected heading for the opinions is attached to this order. In all other respects the opinions remain unchanged.



---

Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 22 2004

Date

  
Chief Clerk

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

---

DOROTHY CREECH,

Plaintiff-Appellee,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

UNPUBLISHED

No. 237437  
Jackson Circuit Court  
LC No. 00-005650-NO

---

JAY C. PORTER,

Plaintiff-Appellee,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237438  
LC No. 00-005711-NO

---

SARAH E. WILLIAMS, JOHN WALLACE, and  
SHARON WALLACE,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237439  
LC No. 00-005740-NZ

---

JERRY RICHARD MOORE, SHEREE MOORE,  
DENISE REYNOLDS, and GLEN REYNOLDS,

Plaintiffs-Appellees,

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

JAY ANSON, DOUGLAS AYLESWORTH, JANET BEILFUSS, CHARLES BELTZ, THEODORE BREZINSKI, REBECCA BURT, RENE CHAPA, DAVID CLAUCHERTY, MAURINE CORYELL, MARY CRANDALL, DIANE EMERY, LINDA FARLEY, JOLA FARRELL, LESTER FIDLER, MARK E. GORZEN, MARY GREEN, RUTH HALE, SHAWN HAMLIN, BARBARA JEAN HARDEN, HERBERT ISAACS, MARY JACOBSON, PAUL KOZLOWICZ, RAY LEWIS, TERESA MAY, DAVID CLYDE MEISTER, LUCILLE MEYER, KEVIN MILLER, NICHOLAS MILLER, DONALD MOON, RUBY MONTGOMERY, CAROLINE MYERS, ARTHUR NASTALLY, SUSAN PERRY, TERRY PHALEN, RONALD RACER, ROBERT REESE, ROBERT RICHARDSON, VALERIE RODERICK, LUCILLE SEPTA, DANNY SMITH, FRED STEWART, ROBERT THOMAS, ROY LEE THOMASSON, JANET TODD, PATRICIA TREFRY, TONE TRUSTY, KIMBERLY TUCKER, CHARLES WALKER, STEPHANIE WALSH, KATHLEEN WILSON, BERNARD YAGER, SUSAN AYLESWORTH, LINDA BREZINSKI, MRS. CLAUCHERTY, STEVEN D. EMERY, WILLIAM A. FARLEY, JR., SHIRLEY FIDLER, SUE GORZEN, EUGENE GREEN, JOYCE ISAACS, LAWRENCE O. JACOBSON, JOAN KOZLOWICZ, JAMES P. MAY, PHYLLIS A. MEISTER, JAMES MEYER, DEE MOON, EMILY NASTALLY, MARY PHALEN, MARY E. RICHARDSON, JEAN STEWART, PHYLLIS J. THOMAS, SANDRA F. THOMASSON, MARIA TRUSTY, GENE T. TUCKER, KIMBERLY WALKER, JASON WALSH, JACK WHEELER, JOY YAGER, and ALL OTHER SIMILARLY SITUATED,

Plaintiffs-Appellees,

---

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237441  
LC No. 01-000755-NO

JERRY RICHARD MOORE, SHEREE L.  
MOORE, DENISE REYNOLDS, GLEN  
REYNOLDS, and ALL OTHERS SIMILARLY  
SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237442  
LC No. 00-005752-NH

DOROTHY CREECH and ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237443  
LC No. 00-005650-NO

SARAH E. WILLIAMS, JOHN WALLACE,  
SHARON WALLACE, and ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237444  
LC No. 00-005740-NZ

---

JAY C. PORTER and ALL OTHER SIMILARLY  
SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237445

LC No. 00-005711-NO

JAY ANSON, DOUGLAS AYLESWORTH,  
JANET BEILFUSS, CHARLES BELTZ,  
THEODORE BREZINSKI, REBECCA BURT,  
RENE CHAPA, DAVID CLAUCHERTY,  
MAURINE CORYELL, MARY CRANDALL,  
DIANE EMERY, LINDA FARLEY, JOLA  
FARRELL, LESTER FIDLER, MARK E.  
GORZEN, MARY GREEN, RUTH HALE,  
SHAWN HAMLIN, BARBARA JEAN HARDEN,  
HERBERT ISAACS, MARY JACOBSON, PAUL  
KOZLOWICZ, RAY LEWIS, TERESA MAY,  
DAVID CLYDE MEISTER, LUCILLE MEYER,  
KEVIN MILLER, NICHOLAS MILLER,  
DONALD MOON, RUBY MONTGOMERY,  
CAROLINE MYERS, ARTHUR NASTALLY,  
SUSAN PERRY, TERRY PHALEN, RONALD  
RACER, ROBERT REESE, ROBERT  
RICHARDSON, VALERIE RODERICK,  
LUCILLE SEPTA, DANNY SMITH, FRED  
STEWART, ROBERT THOMAS, ROY LEE  
THOMASSON, JANET TODD, PATRICIA  
TREFRY, TONE TRUSTY, KIMBERLY  
TUCKER, CHARLES WALKER, STEPHANIE  
WALSH, KATHLEEN WILSON, BERNARD  
YAGER, SUSAN AYLESWORTH, LINDA  
BREZINSKI, MRS. CLAUCHERTY, STEVEN D.  
EMERY, WILLIAM A. FARLEY, JR., SHIRLEY  
FIDLER, SUE GORZEN, EUGENE GREEN,  
JOYCE ISAACS, LAWRENCE O. JACOBSON,  
JOAN KOZLOWICZ, JAMES P. MAY,  
PHYLLIS A. MEISTER, JAMES MEYER, DEE  
MOON, EMILY NASTALLY, MARY PHALEN,  
MARY E. RICHARDSON, JEAN STEWART,  
PHYLLIS J. THOMAS, SANDRA F.

---

THOMASSON, MARIA TRUSTY, GENE T.  
TUCKER, KIMBERLY WALKER, JASON  
WALSH, JACK WHEELER, JOY YAGER, and  
ALL OTHERS SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.,

Defendant-Appellant.

---

No. 237446

LC No. 01-000755-NO

Before: O'Connell, P.J., and Jansen and Murray, JJ.

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

---

DOROTHY CREECH,

Plaintiff-Appellee,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

UNPUBLISHED

June 8, 2004

No. 237437

Jackson Circuit Court

LC No. 00-005650-NH

---

JAY C. PORTER,

Plaintiff-Appellee,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237438

LC No. 00-005711-NO

---

SARAH E. WILLIAMS, JOHN WALLACE, and  
SHARON WALLACE,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237439

LC No. 00-005740-NH

---

JERRY RICHARD MOORE, SHEREE MOORE,  
DENISE REYNOLDS, and GLEN REYNOLDS,

---

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237440

LC No. 00-005752-NH

JAY ANSON, DOUGLAS AYLESWORTH,  
JANET BEILFUSS, CHARLES BELTZ,  
THEODORE BREZINSKI, REBECCA BURT,  
RENE CHAPA, DAVID CLAUCHERTY,  
MAURINE CORYELL, MARY CRANDALL,  
DIANE EMERY, LINDA FARLEY, JOLA  
FARRELL, LESTER FIDLER, MARK E.  
GORZEN, MARY GREEN, RUTH HALE,  
SHAWN HAMLIN, BARBARA JEAN HARDEN,  
HERBERT ISAACS, MARY JACOBSON, PAUL  
KOZLOWICZ, RAY LEWIS, TERESA MAY,  
DAVID CLYDE MEISTER, LUCILLE MEYER,  
KEVIN MILLER, NICHOLAS MILLER,  
DONALD MOON, RUBY MONTGOMERY,  
CAROLINE MYERS, ARTHUR NASTALLY,  
SUSAN PERRY, TERRY PHALEN, RONALD  
RACER, ROBERT REESE, ROBERT  
RICHARDSON, VALERIE RODERICK,  
LUCILLE SEPTA, DANNY SMITH, FRED  
STEWART, ROBERT THOMAS, ROY LEE  
THOMASSON, JANET TODD, PATRICIA  
TREFRY, TONE TRUSTY, KIMBERLY  
TUCKER, CHARLES WALKER, STEPHANIE  
WALSH, KATHLEEN WILSON, BERNARD  
YAGER, SUSAN AYLESWORTH, LINDA  
BREZINSKI, MRS. CLAUCHERTY, STEVEN D.  
EMERY, WILLIAM A. FARLEY, JR., SHIRLEY  
FIDLER, SUE GORZEN, EUGENE GREEN,  
JOYCE ISAACS, LAWRENCE O. JACOBSON,  
JOAN KOZLOWICZ, JAMES P. MAY,  
PHYLLIS A. MEISTER, JAMES MEYER, DEE  
MOON, EMILY NASTALLY, MARY PHALEN,  
MARY E. RICHARDSON, JEAN STEWART,  
PHYLLIS J. THOMAS, SANDRA F.  
THOMASSON, MARIA TRUSTY, GENE T.  
TUCKER, KIMBERLY WALKER, JASON  
WALSH, JACK WHEELER, JOY YAGER, and



---

ALL OTHER SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237441  
LC No. 01-000755-NO

JERRY RICHARD MOORE, SHEREE L.  
MOORE, DENISE REYNOLDS, GLEN  
REYNOLDS, and ALL OTHERS SIMILARLY  
SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237442  
LC No. 00-005752-NH

DOROTHY CREECH and ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

No. 237443  
LC No. 00-005650-NH

SARAH E. WILLIAMS, JOHN WALLACE,  
SHARON WALLACE, and ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

No. 237444

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

JAY C. PORTER and ALL OTHER SIMILARLY  
SITUATED,

Plaintiffs-Appellees,

v

No. 237445

LC No. 00-005711-NH

W. A. FOOTE MEMORIAL HOSPITAL, INC.  
and STERIS CORPORATION,

Defendants-Appellants.

---

JAY ANSON, DOUGLAS AYLESWORTH,  
JANET BEILFUSS, CHARLES BELTZ,  
THEODORE BREZINSKI, REBECCA BURT,  
RENE CHAPA, DAVID CLAUCHERTY,  
MAURINE CORYELL, MARY CRANDALL,  
DIANE EMERY, LINDA FARLEY, JOLA  
FARRELL, LESTER FIDLER, MARK E.  
GORZEN, MARY GREEN, RUTH HALE,  
SHAWN HAMLIN, BARBARA JEAN HARDEN,  
HERBERT ISAACS, MARY JACOBSON, PAUL  
KOZLOWICZ, RAY LEWIS, TERESA MAY,  
DAVID CLYDE MEISTER, LUCILLE MEYER,  
KEVIN MILLER, NICHOLAS MILLER,  
DONALD MOON, RUBY MONTGOMERY,  
CAROLINE MYERS, ARTHUR NASTALLY,  
SUSAN PERRY, TERRY PHALEN, RONALD  
RACER, ROBERT REESE, ROBERT  
RICHARDSON, VALERIE RODERICK,  
LUCILLE SEPTA, DANNY SMITH, FRED  
STEWART, ROBERT THOMAS, ROY LEE  
THOMASSON, JANET TODD, PATRICIA  
TREFRY, TONE TRUSTY, KIMBERLY  
TUCKER, CHARLES WALKER, STEPHANIE  
WALSH, KATHLEEN WILSON, BERNARD  
YAGER, SUSAN AYLESWORTH, LINDA  
BREZINSKI, MRS. CLAUCHERTY, STEVEN D.  
EMERY, WILLIAM A. FARLEY, JR., SHIRLEY

---

FIDLER, SUE GORZEN, EUGENE GREEN,  
JOYCE ISAACS, LAWRENCE O. JACOBSON,  
JOAN KOZLOWICZ, JAMES P. MAY,  
PHYLLIS A. MEISTER, JAMES MEYER, DEE  
MOON, EMILY NASTALLY, MARY PHALEN,  
MARY E. RICHARDSON, JEAN STEWART,  
PHYLLIS J. THOMAS, SANDRA F.  
THOMASSON, MARIA TRUSTY, GENE T.  
TUCKER, KIMBERLY WALKER, JASON  
WALSH, JACK WHEELER, JOY YAGER, and  
ALL OTHERS SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

No. 237446  
LC No. 01-000755-NO

W.A. FOOTE MEMORIAL HOSPITAL, INC. and  
STERIS CORPORATION,

Defendants-Appellants.

---

Before: O'Connell, P.J., and Jansen and Murray, JJ.

O'CONNELL, J. (concurring in part, dissenting in part.)

I concur with parts I and II of the majority opinion that class certification was properly granted by the trial court. I write separately to say that leave to appeal in this case was imprudently granted on the balance of the issues before this Court. I note that leave to appeal was originally denied by this Court. Unfortunately, the Supreme Court remanded this case to be heard as on leave granted. *Creech v W.A. Foote Mem'l Hosp, Inc*, 456 Mich 887; 636 NW2d 138 (2001). Other than the class certification issue, none of the issues in this case are ripe for a motion under MCR 2.116(C)(10).<sup>1</sup> The balance of the issues need further record development before this Court can properly render a decision on the merits of these issues.

Other than the trial court's order certifying this matter as a class action, I would vacate the trial court's orders in regard to parts III and IV of the majority opinion, and I would remand

---

<sup>1</sup> I also concur with that portion of part III of the majority opinion that vacates the trial court's findings that plaintiffs' claim was one for negligence.

the case to the trial court for further proceedings. Once the lower court record is further developed, the parties are free to refile their motions for summary disposition.<sup>2</sup>

/s/ Peter D. O'Connell

---

<sup>2</sup> I write separately simply to state that leave should not have been granted in this complex case until such time as the record is further developed. The trial court was in fact appropriately managing a very complicated case.