

STATE OF MICHIGAN  
COURT OF APPEALS

---

JENNIFER PARR and TODD PARR,  
  
Plaintiff-Appellants,

UNPUBLISHED  
January 19, 2006

v

MICHELLE HENDERSON, MD and GREATER  
FLINT SPORTS MEDICINE CENTER, PC, aka,  
GREATER FLINT BONE AND JOINT  
INSTITUTE,

No. 263468  
Genesee Circuit Court  
LC No. 03-078025-NH

Defendants-Appellees.

---

Before: Cavanagh, P.J., and Hoekstra and Markey, JJ.

MEMORANDUM.

Plaintiffs appeal by right the trial court's judgment granting defendants summary disposition in this medical malpractice case based on the combined effect of the statute of limitations and a defective affidavit of merit attached to plaintiffs' complaint. The parties agree that we must reverse and remand for the purpose of affording plaintiffs an opportunity to file a proper affidavit of merit in accordance with this Court's decision in *Apsey v Memorial Hosp (On Reconsideration)*, 266 Mich App 666, 682; 702 NW2d 870 (2005). Accordingly, we reverse.

Plaintiffs allege malpractice occurred on January 2, 2002. They filed their complaint on December 23, 2003 with an affidavit of merit signed by Dr. Robert C. Pumbo in the State of Pennsylvania bearing only a jurat completed by a Pennsylvania notary public. On April 16, 2005, this Court released its initial published opinion in *Apsey*. Days later, defendants moved for summary disposition arguing that plaintiffs' affidavit of merit did not satisfy the requirements of MCL 600.2912d because it did not contain a certification for the out-of-state notary, as required by MCL 600.2102. The trial court granted defendants' motion on June 2, 2005, the same day this Court granted reconsideration and vacated its initial decision in *Apsey*.

This Court released its opinion on reconsideration in *Apsey* on June 9, 2005. Because of wide-spread reliance on the Uniform Recognition of Acknowledgements Act (URAA), MCL 565.261 *et seq.*, which does not require a special certification to validate an out-of-state affidavit, this Court held its decision requiring compliance with MCL 600.2102 would apply prospectively only from the date of its opinion on reconsideration. *Apsey, supra* 679-682. The *Apsey* majority also held that, "With regard to all medical malpractice cases pending in which plaintiffs are not in compliance with MCL 600.2102(4), on the basis of justice and equity, plaintiffs can come into

compliance by filing the proper certification.” *Apsey*, *supra* 682. Because this case was pending when *Apsey* was decided, we remand so that plaintiffs can comply with that decision.

We reverse and remand for further proceedings. We do not retain jurisdiction.

/s/ Michael J. Cavanagh

/s/ Joel P. Hoekstra

/s/ Jane E. Markey