

MOTION FOR RELIEF FROM JUDGMENT
PURSUANT TO MCR 2.612(C)(1)(a)

NOW COMES Barbara A. Lewis-Clark, Individually, and as Personal Representative of the Estate of Henry O. Clark, Jr., Deceased, plaintiff in the above-entitled matter, through her attorney, Ruth A. Rowley, and moves this court pursuant to MCR 2.612(C)(1)(a) for relief from the Order Approving Settlement and Authorizing Distribution of Wrongful Death Proceeds dated October 28, 2005. More specifically, plaintiff requests this court set aside the settlement and allow plaintiff to proceed to trial on her claim against defendants arising from the wrongful death of her husband, Henry O. Clark, Jr.

Plaintiff makes this request pursuant to MCR 2.612(C)(1)(a), which provides that "[o]n motion and just terms, the court may relieve a party or the legal representative of a party from a final judgment, order, or proceeding on . . . grounds [of]

(a) Mistake, inadvertence, surprise or excusable neglect."

FACTUAL SUPPORT FOR MOTION

1. Plaintiff's decedent, Henry O. Clark, Jr., died on July 3, 2001, while a patient at defendant Harper Hospital, due to intraperitoneal hemorrhage following a laparoscopic cholecystectomy performed on 6/29/01. Fatal hemorrhaging allegedly resulted from excessive administration of heparin, an anticoagulant.
2. In the weeks following Mr. Clark's death, plaintiff endeavored, without success, to obtain information and/or explanation from Harper Hospital concerning the circumstances of her husband's death. In late July or early August of 2001, plaintiff retained the law firm of Fieger, Fieger, Kenney & Johnson, P.C., to initiate

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**ORDER RE: PLAINTIFF'S MOTION PURSUANT TO
MCR 2.612(C)(1)(a) FOR RELIEF FROM JUDGMENT**

At a session of the Court, held **MAR 24 2006**,
In the County of Wayne, State of Michigan

Hon. Wendy M. Baxter Presiding **HON. WENDY M. BAXTER**

The above-entitled matter having come before the Court on Friday, March 17, 2006, on Plaintiff's Motion Pursuant to MCR 2.612(C)(1)(a) For Relief from Judgment, more particularly, a motion requesting that settlement of the matter, as set forth in the Court's Order of 10/28/05, be set aside, and defendants having responded to the motion, and all parties having appeared for oral argument on plaintiff's motion, and the court having reviewed plaintiff's motion and responses thereto, and the court having heard oral argument and being otherwise fully advised in the premises, it is hereby

ORDERED, that plaintiff's motion pursuant to MCR 2.612(C)(1)(a) for relief from judgement is denied.

SO ORDERED.

HON. WENDY M. BAXTER

Circuit Court Judge

A TRUE COPY
CATHY M. GARRETT
WAYNE COUNTY CLERK
[Signature]
DEPUTY CLERK

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

BARBARA A. LEWIS-CLARK, Individually,
and as Personal Representative of the Estate
of HENRY O. CLARK, JR., Deceased

Plaintiff,

Case No: 03-340704 NH
Hon: Wendy Baxter

HARPER HOSPITAL, an assumed name of
HARPER-HUTZEL HOSPITAL, a Michigan corporation,
and THE DETROIT MEDICAL CENTER, a Michigan
corporation, JOHN BARNWELL, M.D., J. PIPER, R.N.,
and J. NEINO, R.N., JAMES GLAZIER, M.D. and
VIRGINIA TEKEILI, R.Ph., Jointly and Severally,

GEOFFREY N. FIEGER (P30441)
TODD J. WEGLARZ (P48035)
Fieger, Fieger, Kenney & Johnson, P.C.
Attorney for Plaintiff
19390 West Ten Mile Road
Southfield, Michigan 48075-2463
(248) 355-5555

ROBERT P. ROTH (P27238)
Portnoy & Roth, P.C.
Attorney for Defendant Dr. Barnwell
3883 Telegraph Rd Ste 103
Bloomfield Hills, MI 48302-1432
(248) 647-4242

WILLIAM CHAKLOS (P33180)
Kitch, Drutchas, Wagner, DeNardis
& Valitutti
Attorney for Defendants Harper, DMC,
Piper, Neino, and Tekeili
1 Woodward Ave, FL 10
Detroit, MI 48226-3430
(313) 965-7925

MELVIN SCHWARTZ (P23065)
Schwartz, Jalkanen & Hannum, PC
Attorney for Defendant Glazier
24445 Northwestern Hwy, Ste 200
Southfield, MI 48075-2463
(248) 352-2555

**PLAINTIFF COUNSEL'S RESPONSE TO THE
MOTION FOR RELIEF FROM JUDGEMENT**

The undersigned submits that in light of the agreement reached between the Plaintiff and
Defendants, the terms of which were placed on the record after Plaintiff having been voir dire
by all counsel of record as well as this Court, this case has been settled.

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.


GEOFFREY N. FIEGER (P30444)

TODD J. WEGLARZ (P48035)

Attorneys for Plaintiff

19390 W. Ten Mile Road

Southfield, Michigan 48075

(248) 355-5555

Date: March 15, 2006

PROOF OF SERVICE

STATE OF MICHIGAN)

COUNTY OF OAKLAND)

) SS

Todd J. Weglarz, being first duly sworn, deposes and says that on 3-15-06 he served a copy of a Plaintiff Counsel's Response to the Motion for Relief from Judgement and Proof of Service, upon the attorneys addressed below, by placing same in an envelope, fully addressed, with postage pre-paid, and deposited same in a United States mail receptacle in Southfield, Michigan and faxed:

WILLIAM CHAKLOS (P33180)

Kitch, Drutchas, Wagner, DeNardis & Valitutti

Attorney for Defendants Harper, DMC,

Piper, Neino, and Tekeili

1 Woodward Ave, FL 10

Detroit, MI 48226-3430

(313) 965-7925

ROBERT P. ROTH (P27238)

Portnoy & Roth, P.C.

Attorney for Defendant Dr. Barnwell

3883 Telegraph Rd Ste 103

Bloomfield Hills, MI 48302-1432

(248) 647-4242

MELVIN SCHWARTZ (P23065)

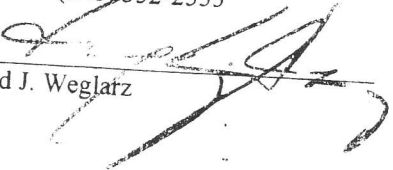
Schwartz, Jalkanen & Hannum, PC

Attorney for Defendant Glazier

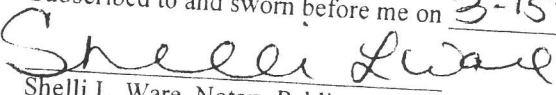
24445 Northwestern Hwy, Ste 200

Southfield, MI 48075-2463

(248) 352-2555


Todd J. Weglarz

Subscribed to and sworn before me on 3-15-06


Shelli L. Ware, Notary Public,
County, Michigan

My Commission Expires:

SHELLI L. WARE
Notary Public, State of Michigan
County of Oakland
My Commission Expires Aug. 13, 2012
Acting in the County of Oakland