STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

RUBEN CASTRO, and
KRISTY CASTRO
Plaintiffs / Appellees.

v.

Supreme Court No. 152383
Court of Appeals No. 316639
Lower Court No. 13-000136-NH
Hon: David S. Swartz

JAMES ALAN GOULET, M.D., and
JAMES ALAN GOULET, M.D., P.C.,
Defendants / Appellants /

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PLAINTIFFS' - APPELLEES', THE CASTROS', BRIEF IN ANSWER TO DEFENDANTS' - APPELLANTS' APPLICATION FOR LEAVE TO APPEAL

"ORAL ARGUMENT REQUESTED"

Respectfully submitted

by: _____

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APPELLEES' CONTRA-STATEMENT OF QUESTIONS INVOLVED

Contra-Question 1

The facts of all prior published decisions of the Michigan Court of Appeals which deal with medical practice actions must be carefully viewed in deciding the Plaintiffs' - Appellees' use of MCL 600.2912d(1), which is "specifically subject" to MCR 600.2912d(2), permitted the twenty-eight (28) day extension under MCL 600.2912d(2) to be applicable on a case by case basis.

The Defendants - Appellants say: "No."
The Majority of the Court of Appeals said: "Yes"
The Plaintiffs - Appellees say: "Yes".

Contra-Question 2

The Majority of the Michigan Court of Appeals Panel that heard the Plaintiffs' - Appellees' Appeal correctly applied MCL 600.2912d(2) 'good cause' provision in a manner that did not deprive said provision of its content or force.

The Defendants - Appellants say: "No".
The Majority of the Court of Appeals said: "Yes".
The Plaintiffs - Appellants say: "Yes".

Question 3.

Given the facts of this Medical Malpractice Case the Majority of the Court of Appeals Panel applied the 'good cause' provision of MCL 600.2912d(2) in a manner that did not deprive the 'good cause' provision thereof of its content or force.

The Defendants - Appellants say: "No".
The Majority of the Court of Appeals said "Yes".
The Plaintiffs - Appellees say: "Yes"

CONTRA-STATEMENT OF FACTS

(a) Nature of the Action

The Defendants - Appellants herein have made 'Application' to this Honorable Court for Leave to Appeal, and filed the same on September 30, 2015.

(b) The Character of Pleadings and Proceedings

The Plaintiffs - Appellees herein filed a Complaint claiming Medical Practice against the Defendants - Appellants herein. The Circuit Court granted the Plaintiffs' - Appellees' Motion brought pursuant to **MCL 600.2912d(2)**, all filings to be made within the twenty-eight (28) day extension were timely served and filed, as detailed herein below. Subsequently the Defendants - Appellants herein served and filed a Motion for Summary Disposition, which was granted by the Circuit Court. A timely Appeal as of Right was filed by the Plaintiffs - Appellees herein, and the Court of Appeals correctly reversed the Circuit Court granting of a Summary Disposition by majority decision.

The Defendants - Appellants herein have now filed their Application for Leave to Appeal herein. in the Plaintiffs' - Appellees' the majority opinion was not a decision that was clearly erroneous and will cause material injustice in any manner under **MCR 7.305(B)(5)(a)**, nor does said decision conflict with Supreme Court decisions, or other decisions of the Court of Appeals under **MCR 7.305(B)(5)(b)**, when the specific facts of previous decisions of this Honorable Court and the Court of Appeals are reviewed in light of the

specific facts of this case verses the facts of published cases.

On October 13, 2015 James Alan Goulett, M.D., a Defendant - Appellant herein, filed an 'Affidavit of Meritorious Defense' signed September 29, 2015, in the Circuit Court, (Exhibit '1' attached), which was and Is obviously self-serving, but most importantly in Paragraph 9 thereof he states "Perineal nerve neuropraxia occurs very infrequently following hip arthroscopy. When it does it is typically transient...." Be mindful it was Dr. Goulett's representation Ruben Castro's, a Plaintiff and Appellee herein, erectile dysfunction would end over time was partially the cause of the delay in filing of this Medical Malpractice to avoid any claim of filing a frivolous action. (See Paragraph 9 of Exhibit 'F' of the Defendants' - Appellants' 'Application for Leave to Appeal', which is a copy of 'Plaintiff's Motion to Extend Time for Filing of Affidavit of Merit 28 Days Pursuant to MCL 600.2912d(2)' served and filed February 4, 2013.).

(c) Substance of Proof

The Plaintiffs - Appellees herein filed this Medical Malpractice claim on February 4, 2013, with their Motion pursuant to **MCL 600.2912d(2),** and on February 5, 2013, the same were personally served upon the Defendants - Appellees herein. The two (2) year Statute of Limitations was to end on February 9, 2013 (Keep in mind February was only a twenty-eight (28) day month in 2013.).

On February 27, 2013, the Circuit Court granted the Plaintiffs' - Appellants' Motion pursuant to **MCL 600.2912d(2)**, and subsequently the Order

was entered on March 8, 2013. granting the requested twenty (28) day extension from February 9, 2013 to March 9, 2013. The Plaintiff's - Appellees' 'Affidavit of Merit was field and served on February 26, 2013. A first Amended Complaint was filed, and served on March 8, 2013. None of the foregoing facts can be deemed to be in controversy.

It must be clarified concerning the Defendants' - Appellants' herein reference to a Deposition of Dr. Ryan M. Nunley in the body of their 'Application", and have attached an excerpt from the same as Exhibit 'O' of their 'Application'. Dr. Ryan M. Nunley's Deposition was taken on January 16, 2013,, by the Defendants' - Appellants' Counsel herein in another Medical Malpractice Case brought against Dr. James Allan Goulett in the Circuit Court for the County of Washtenaw, Case No. GCW-2011-0000701. Opposing Counsel represents herein Dr. Nunley testified he had been first contacted four (4) or (5) months ago regarding Ruben Castro's Affidavit of Merit. but omits the fact. Dr. Nunley testified said contact was not by the Plaintiffs' - Appellees' Counsel herein. (Note: Plaintiffs' - Appellees' Counsel was not notified as to the taking of Dr. Nunley's Deposition on January 16, 2013, and that questions would be asked in reference to anything relating to the Plaintiffs' - Appellees' claim against Dr. James Alan Goulett.).

(d) The Dates of Important Instruments (Papers)

The dates regarding the Plaintiff's - Appellees' filing of papers in the Circuit Court are set forth above under **(c)**.

The Court of Appeals issued its majority decision for publication on August 20, 2015, in this case reversing the Summary Disposition granted by the Circuit Court under Order entered May 17, 2013, and sending this case back for further proceedings in the Circuit Court.

The Defendants - Appellants finally served and filed their Answer to the Plaintiffs' - Appellees' First Amended Complaint on September 28, 2015, and filed their Application for Leave to Appeal in this Honorable Court on September 30, 2015.

(e) and (f) Majority Decision for Publication by the Court of Appeals

As stated above the Court of Appeals by a majority decision released for publication on August 20, 2015, reversed the Circuit Court's granting of a Summary Disposition against the Plaintiffs - Appellees herein.

The Defendants - Appellants herein make much ado about the desenting opinion written by Appellate Judge Kurtis T. Wilder, however it is the Plaintiffs' - Appellees' herein opinion the majority decision was and is the correct decision. The Court of Appeals released said decision for publication not as an unpublished decision as the Court of Appeals does so often. A release of a decision by the Court of Appeals carries special meaning of importance therewith under Michigan Law.

(g) Other Statements of Fact Believed Necessary to Point Out

In this case the Defendants - Appellants represented to the Plaintiff - Appellee that his Erectile Dysfunction from the use of a 'Perineal Traction Post'

during the operative procedure would subside and go away in time, and said representations were one (1) of the reasons it was necessary to extend the time for the filing of the 'Affidavit of Merit'. The Plaintiffs - Appellees were being responsible knowing the claimed legislative intent of **MCL 600.2912d(1) and (2)** was to discourage the filing of frivolous medical malpractice claims, however an **unintended consequence** of the requirement of an 'Affidavit of Merit' was an individual claiming medical malpractice would have an extremely difficult time in finding a qualified professional in the State of Michigan willing to provide an Affidavit of Merit containing contradictions to the University of Michigan Medical Health Service's, and its professional personnel's practices and procedures to support a medical malpractice claim.

It is the Plaintiffs' - Appellees' position and belief **MCL 600.2912d(1)** was drafted **to be subject to MCL 600.2912d(2)** well knowing the effect of the requirement of an 'Affidavit of Merit' would place a virtually impossible burden upon those claiming medical malpractice in Michigan. No reasonable, or rational person can say medical professionals do not commit acts of malpractice, because as a matter of fact they do in fact commit acts of malpractice.

The Plaintiffs - Appellees in this case were forced to go outside the State to obtain an 'Affidavit of Merit', which caused logistics difficulties. The twenty-eight (28) extension pursuant to **MCL 600.2912d(2)** was a necessity in this case.

APPELLEES' ARGUMENT REGARDING CONTRA-QUESTION 1

The facts of all prior published decisions of the Michigan Court of Appeals which deal with medical practice actions must be carefully viewed in deciding the Plaintiffs' - Appellees' use of MCL 600.2912d(1), which is "specifically subject" to MCR 600.2912d(2), permitted the twenty-eight (28) day extension under MCL 600.2912d(2) to be applicable on a case by case basis.

The Defendants - Appellants say: "No."
The Majority of the Court of Appeals said: "Yes"
The Plaintiffs - Appellees say: "Yes".

Standard of Review: It is agreed the 'Standard of Review' regarding the granting or denial of 'Motions for Summary Dispositions', as well as Statutory interpretation are heard **'De Novo'.**

Argument: **MCL 600.2912d(1), and MCL 600.2912d(2)** were amended in 1986 in Michigan's movement for Tort Reform. The announced Legislative intent was to reduce the number of frivolous Medical Malpractice claims brought against the medical professionals and facilities in Michigan. However the Legislature obviously understood the undo burden that was being placed upon victims of Medical Malpractice by requiring an 'Affidavit of Merit'. or **Section (1) thereof would not have been made unambiguously subject to Section (2) thereof.**

There is nothing ambiguous about the language of either of the Statutes. The Legislature well knew the medical professionals and providers in Michigan would be extremely careful, and in fact reluctant to take on the University of Michigan Health Services which included the Defendants-Appellants herein. The victims of actionable Medical Malpractice claims would be required to obtain the 'Affidavits of Merit' outside of Michigan greatly increasing their costs and creting difficulties in logistics of obtaining and providing said 'Affidavits of Merit'.

In any case the facts of the case must be looked to when deciding precedent, since it is the facts of each case, which result in whatever appellate decision there may be.

In ***Barlett v. North Ottawa Community Hospital, 244 Mich App. 685, 693-694; 625 NW 2d 470 (2001)*** the Plaintiff filed a Medical Malpractice Action on July 27, 1998, with a Motion for an Extension of Time for Filing the Affidavit of Merit, however did not notice the Motion for an Extension for Hearing, and by not noticing the Motion for an Extension of Time for Hearing the same was not called to the Court's attention until November 30, 1998. The ***Barlett*** case is distinguishable from this case on its facts.

In ***Young v. Sellers, 254 Mich App 447, 450-451; 657 NW 2d 555 (2002)*** the Medical Malpractice Action was filed November 23, 2001, however the Attorney accidentally failed to file the 'Affidavit of Merit', although the same was in the Attorney's possession at the time of filing the Action.

The Attorney faxed a copy of the 'Affidavit of Merit' to opposing Counsel

on December 27, 2001, however even then did not discover the same had not been filed with the Court. The Attorney did not file a 'Motion for an Extension of Time' until January 14, 2002, which was outside of the twenty-eight (28) day period. In deciding against the Plaintiff therein the Court of Appeals looked to ***Scarsella v. Pollak, 461 Mich 547, 549; 607 NW 2d 711 (2000), and Holmes v. Michigan Capital Medical Ctr., 242 Mich App 703, 706-707; 620 NW 2d 319 (2000).***

In ***Scarsella, supra, pg. 549*** the Plaintiff had not filed an 'Affidavit of Merit' with the 'Complaint', and did not file the same until seven (7) months later without ever filing a 'Motion for an Extension of Time'.

In ***Holmes, supra., pgs. 708-709,*** The Plaintiff filed a Complaint' without an 'Affidavit of Merit' on November 12, 1997, and thereafter on December 15, 1997, filed an 'Affidavit of Merit' outside of the twenty-eight (28) day extension period. If a 'Motion for an Extension' had been filed the extension period would have run on December 15, 1997..

The facts in ***Holmes, supra.; Scarsella, supra.; and Young, supra.***; are all distinguishable from this case based upon the cases' respective facts. All filings in this case occurred within the twenty-eight (28) extension period, and no prejudice can be claimed by the Defendants - Appellants herein, which did not, and does not run afoul of the plain language of **MCL 600.2912d(1) and/or MCL 600.2912d(2)**

None of the cases cited above took up the unambiguous language that **MCL 600.2912d(1)** **is subject to** **MCL 600.2912d(2).**

In ***Ligons v. Crittenton Hosp., 490 Mich 61, 73; 809 NW 2d 271 (2011)*** this Honorable Court discussed the issue of an amendment without regard for the unambiguous language of **MCL 600.2912d(1),** **which as it states "is subject to (2)"** referring to **MCL 600.2912d(2).**

MCL 600.2912d(2) was discussed as an alternative for recourse to **MCL 600.2912d(1), but not being subject thereto** in this Honorable Court's **Ligons, Supra.,** Opinion.

In ***Solowy v. Oakwood Hospital Corp., 454 Mich 214, 228-229; 561 NW 2d 843 (1997)*** this Honorable Court nearly recognized the unambiguous language of **MCL 600.2912d(1)** **is subject to (2)** referring to **MCL 600.2912d(2).**

> **"We are also mindful of the enhanced responsibilities placed on medical malpractice plaintiffs by the 1986 medical malpractice tort reform legislation. See MCL 600.2912a et. seq.; MSA 27A2912(1) et. seq. Specifically, the reforms require, among other things, that a plaintiff locate a medical expert who can review medical records, determine the claim has merit, and draft an affidavit of merit to submit with the complaint. We realize that a case may arise where perhaps because of delay in diagnosis, a plaintiff will not be able to secure an affidavit of merit before the six month period expires. In such a case, the plaintiff's attorney should seek relief, upon a showing of good cause, an additional twenty-eight days to obtain the required affidavit of merit. During this period the statute would be tolled and summary disposition motions on the ground of the failure to state a claim should not be granted."** ***Solowy, surpa., pgs 228-229.***

> **".....While the standard should be applied with flexibility, it should nevertheless be maintained so that the legitimate legislative purposes behind the rather stringent medical malpractice limitations provisions are honored."** ***Solowy, supra., p. 230.***

APPELLEES' ARGUMENT REGARDING QUESTION 2

The majority of the Michigan Court of Appeals Panel that heard the Plaintiffs' - Appellees' Appeal correctly applied MCL 600.2912d(2) 'good cause' provision in a manner that did NOT deprive said provision of its content or force.

The Defendants / Appellees said: "No".
The Majority of the Court of Appeals said: "Yes".
The Plaintiffs / Appellants say: "Yes".

Standard of Review: It is agreed the 'Standard of Review' regarding the granting or denial of 'Motions for Summary Dispositions', as well as 'Statutory Interpretation' are heard **"De Novo"**.

Argument: As this Honorable Court said in ***Solowy, supra., p. 230*** the standard regarding **MCL 600.2912d(1), which is subject to MCL 600.2912d(2)** should be applied with flexibility, and maintained so that the legitimate legislative purpose behind the rather stringent malpractice limitations provisions are honored.

The Defendants - Appellants herein claim the twenty-eight (28) day extension beyond the two (2) year Statute of Limitations in some manner prejudiced them, and denied them defenses to which they are entitled.

In **Solowy, supra. pgs. 228-229** this Honorable Court stated 'good cause' could be delay in diagnosis, which is on all fours with the facts herein where the Defendants - Appellants kept representing to the Plaintiff - Appellee herein that his erectile dysfunction would end over time. The same was untrue in the Plaintiff's - Appellee's situation. James Alan Goulet, M.D's., a Defendant - Appellant herein, 'Affidavit of Meritorious Defense of James Alan Goulet, M.D.' attached as Exhibit '1' hereto in which he says "Perinea Nerve Neuropraxia occurs very infrequently following hip arthroscopy. When it does it is **typically transient** " goes directly to the diagnosis..

Appellate Judge Kurtis T. Wilder's dissent to the majority opinion of the Court of Appeals does not surprise the author .in that he had been before Judge Wilder, when he was a Washtenaw County Circuit Judge. In Appellate Judge Wilder's dissent he stated he observed that **MCL 600.2912d(2)** and the Statute of Limitations in **MCL 600.5806(6)** must be read harmoniously to justify his observation regarding commencement within the Statute of Limitations period, giving meaning to both Statutes. Judge Wilder expressed the proposition that a claim barred by an expired Statute of Limitations, "may be subsequently revived by action of a Court of law" is unsupported. Judge Wilder's idea reading **MCL 600.2912d(2)**, and **MCL 600.5806(6)** must be read harmoniously within itself creates ambiguity.

.Judge Wilder's also claims the majority made a mockery of the 'good

cause' standard, stating that the term has such undefined circumstances by finding the same so general and elastic in its import that we cannot presume any legislative intent beyond opening the door for the court to exercise its best judgment and discretion in determining, if conditions exist to excuse the delay. Judge Wilder continues by stating, if the Legislature intended the grant of an extension to be limited by nothing more than the trial court's discretion, it would have included the language in the Statute. Judge Wilder then concludes the incorporation of the 'good cause' standard was obviously intended to invoke a greater burden. Where is that language in **MCL 600.2912d(2)**?

The Statutes do not define 'good cause'. Proof of 'good cause' is left to the Trial Court, and the same cannot be overturned by the Appellate Court absent the Appellate Court finding the Trial Court committed 'clear error' in its finding of 'good cause'. 'Clear error' does not exist as to the majority Court of Appeals decision regarding 'good cause'.

As stated herein above **MCL 600.2912d(2)** does not set forth a specific requirement it be harmoniously read with **MCL 600.5805(6).** Where in the said Statutes is there any requirement they be harmoniously read?

The Defendants - Appellants rely heavily on Judge Wilder's dissent, and well they should for the reason said dissent virtually follows the Defendants' - Appellants' position in this Medical Practice Action from day one.

APPELLEES' ARGUMENT REGARDING QUESTION 3

Given the facts of this Medical Malpractice Case the Majority of the Court of Appeals Panel applied the 'good cause' provision of MCL 600.2912d(2) in a manner that did NOT deprive the 'good cause' provision thereof of its content or force.

The Defendants - Appellants say: "No".
The Majority of the Court of Appeals said "Yes".
The Plaintiffs - Appellees say: "Yes"

Standard of Review: It is agreed the 'Standard of Review' regarding findings of fact is **'Clear Error'**.

Argument: The Defendants - Appellants attempt to argue away the fact James Alan Goulet, M.D., a Defendant - Appellant herein, kept informing the Plaintiff - Appellee that his erectile dysfunction would end in time, when in fact his 'Affidavti of Meritorious Defense....' filed in the Circuit Court on October 13, 2015, attached hereto as Exhibit '1' states in Paragraph '9' thereof when erectile dysfunction occurs, it is typically transient. **HOWEVER** said statement by James Alan Goulet, M. D., a Defendant - Appellant herein, under oath admits erectile dysfunction does occur in patients undergoing the surgery the Plaintiff - Appellee underwent, and that is **typically transient**. **Typically transient does not mean the erectile dysfunction is always transient.**

The Majority in the Court of Appeals Decision Released for Publication, ***Castro Slip op., at 4-5,*** could have not been more on point as to the 'good cause' issue, and delay in filing this Medical Malpractice Action was to avoid any possibility of the same be labeled 'frivolous' on a latter date..

The Defendants - Appellants make mention of the fact numerous communications with the University of Michigan Health System should have informed the Plaintiff's - Appellees' Counsel that the Defendants - Appellants viewed the Plaintiffs' - Appellee's Medical Malpractice claim as utterly lacking merit. What other view would the Defendants - Appellants had, but the Plaintiffs' - Appellees' Medical Malpractice claim lacked merit?

The Defendants' - Appellants' Counsel mention of the Deposition of Dr. Nunley they took in another Medical Malpractice Action against James Alan Goulet, M.D., in the Circuit Court for the County of Washtenaw, in which the Defendants' - Appellants' Counsel inquired about the Plaintiffs - Appellees in this case must not be given any credence in supporting their position at all. Dr. Nunley testified he was contacted by the Plaintiffs' - Appellees' Counsel 'last week' (Note: The Deposition was taken on January 16, 2013.), and the Plaintiffs - Appellees herein stated in their 'Motion for the Extension Pursuant to **MCL 600.2912d(2)** Dr. Nunley was retained on January 18, 2013.

Paragraphs 6, 7 & 8 of James Alan Goulet's 'Affidavit of Meritorious Defense' signed September 29, 2015, and filed in the Circuit Court on October 13, 2015, attached hereto as Exhibit '1' admits he did not inform the Plaintiff -

Appellee of the risk of erectile dysfunction claiming he doubted even if he had informed him of the risk that he would have declined the surgery, and instead accepted the painful and debilitating condition the Plaintiff - Appellee was in before the surgery. James Alan Goulet, M.D's., doubt of something does not excuse him from failing to warn a patient of the horrid risk of the possibility of erectile dysfunction. Isn't the reason for informing a patient about the risks of surgery to allow the patient to make an informed decision? It certainly was not the Defendants' - Appellants' to decide for the Plaintiff - Appellee.

The Plaintiff - Appellant did not give any history of erectile dysfunction prior to the surgery.

RELIEF REQUESTED

The Plaintiffs - Appellees herein respectfully request the Defendants' Appellants' 'Application for Leave to Appeal' be denied for the reason the same is absent any basis upon which a determination the decision of the Court of Appeals is clearly erroneous and will cause material injustice, **MCR 7.305(B)(5)(a),** and/or the decision of the Court of Appeals conflicts with a Supreme Court decision and another decision of the Court of Appeals, **MCR 7.305(B)(5)(b),** can be found, and in addition thereto, the affirmative reliefs requested be also denied.

Dated: October 24, 2015.

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EXHIBIT "1"

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

RUBEN CASTRO, and CHRISTY CASTRO, Jointly and Severally,

Plaintiffs,

v.

JAMES ALAN GOULET, M.D., JAMES ALAN GOULET, M.D. P.C., and STEPHEN R. TOLHURST, M.D., Jointly and Severally,,

Defendants.

Case No. 13-138-NH

Honorable David S. Swartz

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AFFIDAVIT OF MERITORIOUS DEFENSE OF JAMES ALAN GOULET, M.D.

STATE OF MICHIGAN)
) SS
COUNTY OF WASHTENAW)

I, JAMES ALAN GOULET, M.D., being duly sworn, state:

1. I am a board certified orthopedic surgeon, the defendant in this action, and meet the criteria in Michigan's expert witness qualifications statute.

2. I have reviewed Plaintiff's filings and the pertinent medical records. In particular I have reviewed the Affidavit of Merit of Ryan M. Nunley, MD.

3. I performed arthroscopic hip surgery on Ruben Castro on February 9, 2011. Plaintiff does not claim the surgery was done incorrectly. The surgery provided substantial benefit to Mr. Castro. He does not contend otherwise.

4. The standard of care applicable to me was that of an orthopedic surgeon of reasonable training and skill as of February 9, 2011.

5. I met this standard of care.

6. Plaintiff contends that I failed to provide him with adequate informed consent to surgery, and that if I had specifically warned him he might suffer perineal nerve damage, numbness of the penis/erectile dysfunction, that he would have refused to undergo surgery, thus accepting the painful and debilitated condition he found himself in before the operation.

7. I question whether any objectively reasonable patient in Mr. Castro's condition would have refused this surgery if informed of this risk. With no surgery he would remain debilitated and in pain. I disagree with Dr. Nunley's conclusion that the patient would have declined to undergo the surgical procedure if informed of the risk of perineal nerve neuropraxia.

8. The standard of care regarding informed consent is not to provide the patient with an exhaustive list of every conceivable complication of a given surgical procedure. Rather it is to inform the patient of the most pertinent and likely risks of surgery. This was done. The patient signed a consent form after this process was completed. Damage to nerves in general is among the listed risks. It was not the standard of care to list in writing, and emphasize verbally, every individual nerve that could potentially be impacted by surgery.

9. Perineal nerve neuropraxia occurs very infrequently following hip arthroscopy. When it does it is typically transient. In this case Mr. Castro gave a history of erectile dysfunction before the surgery.

10. For all of these reasons and more, I have a meritorious defense to this action.

Further Affiant saith not.

James A Goulet

James Alan Goulet, M.D.

Subscribed and sworn to before me this
29th day of September, 2015

Donna M Zink

Notary Public, Washtenaw County, MI.

My Commission expires: 8/11/2017

DONNA M. ZINK
NOTARY PUBLIC, STATE OF MI
COUNTY OF WASHTENAW
MY COMMISSION EXPIRES Aug 11, 2017
ACTING IN COUNTY OF Washtenaw

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

RUBEN CASTRO, and CHRISTY CASTRO, Jointly and Severally,

Plaintiffs,

v.

JAMES ALAN GOULET, M.D., JAMES ALAN GOULET, M.D. P.C., and STEPHEN R. TOLHURST, M.D., Jointly and Severally,,

Defendants.

Case No. 13-138-NH

Honorable David S. Swartz

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PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

TAMMYE LASTER, being first duly sworn, deposes and says that she is employed by the law firm of KERR, RUSSELL AND WEBER, PLC, attorneys for Defendants, that on October 8, 2015, she deposited in the U.S. Mails, postage pre-paid, copies of **1) Affidavit of Meritorious Defense of James Alan Goulet, M.D.,** and **2) Proof of Service**, which envelope was addressed to: James D. Wines, P.O. Box 130478, Ann Arbor, Michigan 48113-0478.

Tammye Laster

Tammye Laster

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

RUBEN CASTRO, and
KRISTY CASTRO
Plaintiffs / Appellees.

v.

Supreme Court No. 152383
Court of Appeals No. 316639
Lower Court No. 13-000136-NH
Hon: David S. Swartz

JAMES ALAN GOULET, M.D., and
JAMES ALAN GOULET, M.D., P.C.,
Defendants / Appellants /

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CERTIFICATE OF SERVICES REGARDING APPELLEES' BRIEF

I herein and hereby certify to this Honorable Court that I served two (2) copies of the 'Plaintiffs' - Appellees', The Castros, Brief in Answer to Defendants' - Appellants' Application for Leave to Appeal with Exhibit "1" Attached upon **PATRICK McLAIN,** of the Law Firm of **KERR, RUSSEL, and WEBER**, at their above captioned address via First Class (Priority) Mail with the postage prepaid, and with my return address on the sealed envelope on this 24th day of October, 2015.

Dated: October 24, 2015.

JAMES D. WINES (P22436)
Attorney for the Castros
Plaintiffs - Appellees

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LARRY S. ROYSTER
CLERK SUPREME COURT