

COA Opinion: Amended complaint in medical malpractice case allowed where no new potential cause of injury is alleged

31. March 2010

On March 30, 2010, the Court of Appeals published its unanimous opinion in the consolidated cases of *Decker v. Rochowiak*, Nos. 284155, 285870, and 290633. In this medical-malpractice case, plaintiff alleges that defendants failed to properly care for, evaluate, treat, and monitor an infant baby's hypoglycemic condition, which resulted in his injuries. The Court of Appeals affirmed the trial court's order granting plaintiff leave to amend the complaint and order denying defendants' motion for summary disposition.

The plaintiff filed a complaint after serving a notice of intent (NOI) on defendants pursuant to MCL § 600.2912b. A year and a half later, the plaintiff filed an amended complaint to include 17 allegations of specific ways in which the defendants breached the applicable standards of care. The Court of Appeals rejected the defendants' argument that the plaintiff asserted new "theories of malpractice liability" that should be dismissed for lack of notice. The Court of Appeals determined that the plaintiff did not assert any "new" potential causes of injury. The Court of Appeals concluded that the purpose of the notice requirement—to promote settlement without litigation—was realized here because the defendants were given notice of the same claims in the NOI and had the opportunity to enter into settlement negotiations regarding those claims.

The Court of Appeals also concluded that the NOI, read in its entirety in conjunction with the underlying facts, satisfied the statutory causation statement requirement. The Court of Appeals also rejected defendants' argument that plaintiff's expert applied the wrong standard of care. The Court of Appeals affirmed and remanded the case for further proceedings.