

COA Opinion: Where no one disputes the foreseeability of an injury, summary disposition on proximate cause is appropriate

23. May 2010 By Nicole Mazzocco

On May 20, 2010, the Michigan Court of Appeals published its opinion in *Jones v. Detroit Medical Center*, No. 288710. The decedent-plaintiff Jones was involved in a car accident. He received treatment in the emergency room from the defendant-doctor Watson. Watson diagnosed Jones with a seizure disorder and prescribed the drug tegretol. Later, Jones suffered a rare allergic reaction to tegretol and eventually died. Jones' estate sued Watson for malpractice, arguing two theories: (1) Watson negligently did not warn Jones about the possibility of this reaction, even though it was well known; and (2) Watson negligently diagnosed Jones with a seizure disorder that Jones did not have. The trial court granted Jones summary disposition on the question of proximate cause. The Court of Appeals affirmed.

The Court focused on whether Jones' allergic reaction was foreseeable. Neither party disputed that the allergic reaction was a well-known, if rare, side effect of tegretol. Consequently, no reasonable juror could find that Jones' allergic reaction (and death) was not foreseeable, and so the trial court properly granted summary disposition on the issue of proximate cause.

Judge Hoekstra dissented. He criticized the majority's focus on whether the Jones' reaction was foreseeable. To Judge Hoekstra, the correct question was whether Jones' reaction and death was the natural and probable result of Watson's negligence. He argued that reasonable minds could differ on this point, and so summary disposition was not appropriate.