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Court Relaxes Rules for Matching Affidavits

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Although in previous decisions the Michigan Court of Appeals strictly construed the statutory requirement that the defendant and plaintiff's experts must have matching specialties in order for an affidavit of merit to be valid, the court recently reversed this trend in *Robins v Garg*, (No. 256169, rel'd 4/4/06).

In *Garg*, the court held that an affidavit of merit signed by a family practitioner could be used against a general practitioner because of the large overlap between the two types of practice. In concluding that the plaintiff's affidavit of merit, signed by a family practitioner, was valid against the defendant general practitioner, the court looked to the dictionary definitions of both general and family practitioner.

The court observed that family practice is defined as: "medical specialization in general practice that requires additional training and leads to board certification." A general practitioner is defined as: "a medical practitioner whose practice is not limited to any specific branch of medicine." Further, the court found the practices of a family practitioner and general practitioner are alike in that neither practice is limited to a specific branch of medicine.

Accordingly, the court held for the purposes of satisfying the requirements of MCL 600.2169 that a family practitioner and a general practitioner are physicians engaged in the same type of medical practice. Therefore, the plaintiff's affidavit of merit complied with the necessary requirements. The trial court's award of summary disposition to the defendants was reversed.

For a complete copy of the Michigan Court of Appeals holding on *Robins v Garg*, (No. 256169, rel'd 4/4/06), [click here](#).

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