

1 Q That I learned with all the people in front of me a couple  
2 years ago. Your driver's license is A235- --

3 A 7: Redaction separate from

4 Q 7: Redaction separate from

5 A 6: Redaction separate from

6 Q Perfect. It says license type E, which would be enhanced  
7 and O for operator; is that correct?

8 A Yes.

9 Q Thank you, Mr. Redaction separate from

10 A No problem.

11 Q Outside of the fact that you had your license pull -- or not  
12 pulled, but -- was it restricted or suspended for six  
13 months? I apologize. And that was after the accident.

14 THE WITNESS: Can I explain that?

15 A That was -- I was restricted by the doctor.

16 MS. MUZICHUK: Yes. He did not lose his license.

17 A No. I never lost my license. The doctor was the one that  
18 told me after -- for procedures after having episodes like  
19 that, you can't drive for six months.

20 Q Okay. And that's what I was trying to get at with -- in  
21 very poor terms. You've -- outside of this restriction by  
22 the doctor for six months, have you ever had any  
23 restrictions on your license?

24 A No.

25 Q Outside of this six month restriction by the doctor, had you

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|  |               |  |   |                     |  |                           |                                    |    |
|--|---------------|--|---|---------------------|--|---------------------------|------------------------------------|----|
| Court Name (Last, First, Middle)<br><small>Redaction separate from public filing</small> |               |  | MDOC Nbr.<br><small>Redaction separate from public filing</small> |                     | Given Name (Last, First, Middle)<br>Same   |                           |                                    |    |
| Name Type<br>N/A   |               |  | Other Names (Last, First, Middle)<br>None                         |                     |  |                           |                                    |    |
| Place of Birth<br>Michigan   |               |  | Citizenship<br>USA  |                     | Last Known Address & Telephone No.<br><small>Redaction separate from public filing</small> |                           |                                    |    |
| State & DLN<br>Michigan H 530 <small>Redaction separate from public filing</small>       |               |  | DOB<br>991 <small>Redaction separate from public filing</small>   |                     | Lake Orion Michigan 48362<br><small>Redaction separate from public filing</small>          |                           |                                    |    |
| SID No. 2716 <small>Redaction separate from public filing</small>                        |               | FBI No. <small>Redaction separate from public filing</small> |   |                     |  |                           |                                    |    |
| Race<br>White  |               | Sex<br>Male  | Hair<br>Brown   | Eyes<br>Green       |  |                           |                                    |    |
| Height<br>5' 10"   | Weight<br>157 | Highest Grade Completed<br>Tenth Grade                       |   | Occupation<br>None  | Health Ins.<br>No  | Assets-\$1,500 & Up<br>No | Monthly Income of \$75 & Up<br>Yes |    |
| Marital Status<br>Single   |               | Dependents<br>0  | Religion<br>No Preference   |                     | Military Branch<br>None  | Military Dates<br>None    | Discharge Type<br>None             |    |
| Marks, Scars, Amputations, Tattoos   |               |  |   |                     | Drug Abuse   | Alcohol Abuse             | Mental Health Treatment            |    |
| Tattoo Right Forearm   |               | Scar Left Hand   |   | Tattoo Left Forearm |  | Yes                       | Yes                                | No |

### CRIMINAL HISTORY

| Juvenile                        |       |                                      | Adult |  |  |                                     | Status at Time of Offense |                    |   |  |                            |
|---------------------------------|-------|--------------------------------------|-------|--|--|-------------------------------------|---------------------------|--------------------|---|--|----------------------------|
| Comm.                           | Prob. | Esc.                                 | Jail  | Pris.                                  | Prob.  | Esc.                                |                           |                    |   |  |                            |
| 1                               | 1     | 0                                    | 9     | 0                                      | 4  | 0                                   |                           | None               |   |  | Delayed Sentence           |
|                                 |       |                                      |       |  |  |                                     |                           | HYTA               |   |  | Parole                     |
| Age of First Arrest<br>14       |       | Sex Offense Convictions<br>0         |       | SAI Eligible<br>No                     |  |                                     |                           | Probation          |   |  | Jail                       |
| Pending Charges in Court<br>Yes |       | No. of Prior Felony Convictions<br>1 |       |  |  |                                     |                           | District Probation |   |  | State Prison               |
|                                 |       |                                      |       |  |  |                                     |                           | Federal Probation  | X |  | On Bond                    |
|                                 |       |                                      |       |  |  |                                     |                           | Federal Parole     |   |  | Juvenile Court Supervision |
| Type of Report<br>Presentence   |       | County<br>Oakland County             |       |  | Agent & Caseload No.<br><small>Redaction separate from public filing</small> |                                     |                           |                    |   |  |                            |
|                                 |       | DOC Recommended Disposition<br>4     |       | Probation Violation New Sentence<br>No |  | Probation Violation Technical<br>No |                           |                    |   |  |                            |

### CURRENT OFFENSE

NO. 1 OF 4 Docket No.: Charge (1): Redaction separate from public filing Last Name: Redaction separate from public filing

|  |  |   |                              |                     |                                  |                            |                               |                                   |  |
|--|--|---|------------------------------|---------------------|----------------------------------|----------------------------|-------------------------------|-----------------------------------|--|
| PACC Code<br>750.110A3   |  | Offense<br>Home Invasion - 2nd Degree (Hab Crim 2nd Off.) |                              |                     |                                  | Max<br>22 yrs.6 mos.       |                               | Consecutive Sentence<br>No        |  |
| Victim / Relationship<br><small>Redaction separate from public filing</small> Nicholas - No Relationship |  |   |                              |                     | Codefendant(s)<br>None           |                            |                               |                                   |  |
| Circuit<br>06th Circuit Court - Oakland County   |  |   | Judge<br>Leo Bowman          |                     |                                  | Attorney<br>Zivian, Robert |                               | Retained / Appointed<br>Appointed |  |
| Method of Conviction<br>Plea   |  | Date of Offense<br>12/17/2018                             | Date of Arrest<br>12/17/2018 | Date of Bond<br>N/A | Date of Conviction<br>05/07/2019 | Jail Credit<br>169         | Guilty But Mentally Ill<br>No |                                   |  |

### DISPOSITION

|                       |        |      |               |        |   |                       |                    |      |                  |                        |                          |  |
|-----------------------|--------|------|---------------|--------|---|-----------------------|--------------------|------|------------------|------------------------|--------------------------|--|
| Sentence Type         |        |      | Sentence Date |        | CTN<br><small>Redaction separate from public filing</small> |                       | Fine               |      | Cost             |                        | Restitution              |  |
| MINIMUM               |        |      | MAXIMUM       |        |   | LIFE                  | JAIL               |      | Supervision Fees |                        | Crime Victims Assessment |  |
| Years                 | Months | Days | Years         | Months | Days  |                       | Months             | Days |                  |                        |                          |  |
| Attorney Fees         |        |      | Forensic Fees |        |   | Restitution Fund Fees |                    |      | Other Fees       |                        |                          |  |
| Sentencing Guidelines |        |      |               |        |   |                       |                    |      |                  |                        |                          |  |
| RANGE                 |        |      |               |        | LIFE  | NA                    | Prior Record Total |      |                  | Offense Variable Total |                          |  |
| Low:                  |        | 43   | High:         |        | 107   |                       |                    | 67   |                  | 35                     |                          |  |
| Comments:             |        |      |               |        |   |                       |                    |      |                  |                        |                          |  |

Redaction separate from public filing

Moreover, plaintiff testified that at the time of her trip on the sidewalk, she was not looking down where she was walking but rather was looking at a man who was walking about two blocks away from her. (Ex C, p 63; Apx 99.) She was asked: “[d]o you recall where you were looking at the time you fell?” She responded that, “two block down there was a man walking”; and when asked, “[s]o you were looking at the man?”, she responded: “Yeah.” (Ex C, p 63; Apx 99.)

Photographs of the sidewalk defect at issue show two concrete panels of sidewalk with a vertical discontinuity that is very clearly observable. (See Ex E: Photographs; Apx 194.) The photographs show that one cement panel starts out on one end being even with the panel next to it and then rises until the other end is higher than the panel next to it, and according to plaintiff, ends up being nearly 5 inches higher at its highest point. (See Ex E: Photographs; Apx 194.) So the discontinuity is wedge-shaped, rising from one side of the cement panel to the other side. (*Id.*)

Plaintiff, who was born on May 24, 1955 and had glaucoma, had prescription eyeglasses for nearsightedness<sup>1</sup> at the time of her trip and fall on the sidewalk, but she was not wearing her eyeglasses when she tripped and fell. (Ex C, pp 11, 27, 80; Apx 47, 63, 116.) She had also slipped and fallen while at church about ten years before her trip and fall on the subject sidewalk in this case. (Ex C, pp 40-41; Apx 76-77.)

At the time of her trip and fall on the sidewalk in this case, plaintiff had already undergone four major surgeries, including surgeries for a neck discectomy fusion, meniscus (knee) repair, right shoulder rotator cuff repair, and bladder suspension mesh. (Ex C, pp 42-43; Apx 78-79.) She also had arthritis and had undergone injections in her knees for the arthritic

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<sup>1</sup> Nearsighted is defined as being “able to see near things more clearly than distant ones”; and it is also known as being “myopic.” *Merriam Webster’s Collegiate Dictionary* (11th Ed), p 775; see also *Merriam Webster’s Online Dictionary* (usage example given: he “needed glasses because he was nearsighted”).

On the evening of [Redaction separate from public filing], defendant and his friend, [Redaction separate from public filing], were at Eastland Mall in Harper Woods, Michigan.<sup>6</sup> [Redaction separate from public filing] and defendant were both members of the Eastside Ghetto Boys (EGB), a gang that was affiliated or aligned with Rob Gang. 31b-32b. [Redaction separate from public filing] and defendant overheard the victim—a member of the rival gang Hobb Squad—say “fuck Rob.” 13b-14b. [Redaction separate from public filing] called [Redaction separate from public filing],<sup>7</sup> a member of Rob Gang, and told him: “Hobb at the mall.” 15b. [Redaction separate from public filing] asked if T [Redaction separate from public filing] would walk the victim out of the mall and [Redaction separate from public filing] refused, knowing that [Redaction separate from public filing] would shoot the victim. [Redaction separate from public filing] called [Redaction separate from public filing] a bitch and told him to hand the phone to defendant. 20-21bb, 33b.

As [Redaction separate from public filing] handed over his phone, defendant asked why [Redaction separate from public filing] would not walk the victim out of the mall. [Redaction separate from public filing] replied: “Cause he gonna shoot him.” 27b-28b. [Redaction separate from public filing] then overheard the conversation between defendant and [Redaction separate from public filing]. Defendant told [Redaction separate from public filing] that he would walk the victim out of the mall in a few minutes and would lead the way. Defendant also described what he (defendant) was wearing. 16b-28b.

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defendant’s assistance in perpetrating the murder. Defendant’s supplemental brief, page 17; see also *id.* at pages 11, 28, and 38. But the jury is the ultimate arbiter of the facts and, by their guilty verdict, they have spoken. See *People v Lemmon*, 456 Mich 625, 637; 576 NW2d 129 (1998). We are long past the point of referring to defendant’s “alleged” conduct—we must acknowledge the facts, as found by the jury, that led to the murder of this teenaged victim.

<sup>6</sup> Defendant, who was born on October 20, [Redaction separate from public filing], was 16 years, 2 months, and 7 days old on [Redaction separate from public filing]. [Redaction separate from public filing], who was born on March 9, [Redaction separate from public filing], was 17 years, 9 months, and 18 days old on [Redaction separate from public filing].

<sup>7</sup> [Redaction separate from public filing], who was born on June 14, [Redaction separate from public filing], was 18 years, 6 months, and 13 days old on [Redaction separate from public filing].

**B. Overview.**

Plaintiff asserts that, in October 2015, Dr. Lonappan failed to properly treat and diagnose a Group B Streptococcus infection.<sup>3</sup> Plaintiff contends that WBH is liable for Dr. Lonappan's negligence, under a theory of "ostensible agency." *Id.*<sup>4</sup> Dr. Lonappan works in private practice as an employee of Hospital Consultants, P.C. She has never been an employee of WBH and instead held staff privileges at the hospital.<sup>5</sup> Given her undisputed status as an independent contractor, WBH denied that any agency relationship exists between WBH and Dr. Lonappan.<sup>6</sup>

**C. Factual background.**

Ms. Markel, born on March 15, [Redaction], and [Redaction] years-old in October 2015, has a history of uterine-bleeding/polyps/etc., dating back years. She also has a history of back laminectomy surgery (x 2), which was performed by Ricky Olson, M.D. approximately 20 years ago. In addition, she underwent total left knee arthroplasty in 2006, and total right knee arthroplasty in 2008.<sup>7</sup>

On October 2, 2015, board-certified obstetrician/gynecologist, Mark Dykowski, M.D., performed a hysteroscopic endometrial polypectomy (i.e., with dilatation

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<sup>3</sup> See **Exhibit B**, Complaint.

<sup>4</sup> There is no claim of "independent negligence" against WBH.

<sup>5</sup> See **Exhibit C**, 8/06/19 Opinion, p. 3.

<sup>6</sup> Plaintiff's case against the Co-Defendants, Dr. Lonappan and HCPC, is stayed pending full resolution of this appeal.

<sup>7</sup> See **Exhibit D**, M. Markel Dep., pp. 27-28, 67-68.

1 this deposition to the extent that I can; fair enough?

2 A Yes.

3 Q Normally I have a very loud voice, I don't today.

4 If you have difficulty hearing me or if you simply don't

5 understand my question, please indicate that you don't

6 understand my question and I'll restate it or rephrase it;

7 fair enough?

8 A Yes.

9 Q First of all, for the record, can I have your  
10 full name?

11 A Scott Redaction separate from public filing

12 Q What is your date of birth, Dr. Redaction separate from ?

13 A 2/2/1962.

14 Q So you are 56?

15 A Seven.

16 Q 57; thank you. I'm going to mark as Defendant's  
17 Exhibit Number 1 a legal pleading entitled second notice of  
18 taking discovery only deposition of plaintiff's expert  
19 witness, Scott Redaction separate from public filing, MD, PhD and notice to produce.

20 (Whereupon, Renotice of Deposition was  
21 marked as Defendant's Exhibit 1 for identification.)

22 Q (By Mr. Thomas) Have you seen this document  
23 before today?

24 A Yes.

25 Q Did you comply with the requested information

1 P R O C E E D I N G S

2 (Dr. [Redaction separate from public filing] Deposition Exhibit 1,  
3 Exhibit 2, Exhibit 3, Exhibit 4, and Exhibit 5 were  
4 marked for identification and are attached.)

5 Whereupon,

6 [Redaction separate from public filing], JR., M.D.,

7 being first duly sworn or affirmed to testify to the  
8 truth, the whole truth, and nothing but the truth, was  
9 examined and testified as follows:

10 EXAMINATION BY COUNSEL FOR THE DEFENDANTS

11 BY MR. DWAIHY:

12 Q Good morning, Doctor. Would you please  
13 state your full name for the record.

14 A Yes. My name is [Redaction separate from public filing]

15 Q And your date of birth, please.

16 A October 9th, 1962.

17 Q And your professional address, please.

18 A [Redaction separate from public filing]

19 Richmond, Virginia 23235.

20 Q Thank you. That's where we are today?

21 A We are near my office in the same building.

22 Q Thank you for that. Before we started the  
23 deposition, I marked for the record certain exhibits  
24 that I want to discuss with you.

25 Before we do that, I will put on the record



March 8, 2018

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1 Q. Are you married at the present time?

2 A. No.

3 Q. Single. You've been married in the past?

4 A. Yes.

5 Q. Where did you go to high school?

6 A. Pickford.

7 Q. When did you graduate?

8 A. 1983.

9 Q. Your date of birth is?

10 A. 6-1-65.

11 Q. And since you graduated from Pickford in 1983, what have  
12 you done?

13 A. I worked in a saw mill for five years. Then I took --

14 Q. Okay. Let's start -- Let's do this chronologically.

15 A. Okay.

16 Q. So you graduated --

17 A. You're really going to rack the brain here, buddy. Where  
18 are we going here? Painful.

19 Q. You graduated in '83, right?

20 A. Right.

21 Q. And then where did you go to work after that?

22 A. I went to Wood Forest Industries. They made bi-fold  
23 doors for pre-fab homes.

24 Q. Pickford is on the east end of the U.P.?

25 A. Yeah, by Sault Ste. Marie.

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1b District Court Register of Actions

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|   |                            |   |
|---|----------------------------|---|
| STATE OF MICHIGAN<br>53RD JUDICIAL DISTRICT<br>ORI470025J<br>PIN: 5336-2017 | <b>REGISTER OF ACTIONS</b> | CASE NO: 18-0214 D01 FY<br>X-REFERENCE #: 1475336-17<br>STATUS: CLSD 05/23/18 |
|---|----------------------------|---|

JUDGE OF RECORD: HATTY, MICHAEL P., P-30990  
JUDGE: HATTY, MICHAEL P., P-30990

STATE OF MICHIGAN v

**WHITE/KEVIN/JR**

Redaction separate from public filing

CLINTON TOWNSHIP MI 48035

CTN: 471700319301  
TCN: I918204834P  
SID:  
ENTRY DATE: 01/23/18  
**OFFENSE DATE: 10/24/17**  
ARREST DATE:

DEFENDANT PHONE: (589) 649- Redaction separate VEHICLE TYPE: VPN:  
DOB: 10/14, Redaction separate SEX: M RACE: B DLN: MI W300 Redaction separate CDL:  
VEH YR: VEH MAKE: VIN: PAPER PLATE:

DEFENSE ATTORNEY ADDRESS BAR NO.  
MCCRIRIE, WILLIAM D., III P-34144  
123 MASON RD Telephone No.  
HOWELL MI 48843 (810) 229-6167

OFFICER: DEPT: LIVINGSTON COUNTY SHERIFF  
P-64676  
PROSECUTOR: DELVERO, ANGELA M.,  
VICTIM/DESC: YOUNG/DET/

CNT: 01 C/M/F: F 750317A PACC#750.317A  
**DELIVERY OF CONTROLLED SUBSTANCE CAUSING DEATH**  
ARRAIGNMENT DATE: 01/29/18 PLEA: PLEA DATE:  
FINDINGS: EX COND B/O DISPOSITION DATE: 05/23/18  
SENTENCING DATE:  
FINE COST ST.COST CON MISC. REST TOT FINE TOT DUE  
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00  
JAIL SENTENCE: PROBATION:  
VEH IMMOB START DATE: NUMBER OF DAYS: VEH FORFEITURE:

**BOND HISTORY:**  
300,000.00 CASH OR SURETY BOND CONTINUED

| DATE     | ACTIONS, JUDGMENTS, CASE NOTES                                       | INITIALS |
|----------|--|----------|
| 10/24/17 | 1 ORIGINAL CHARGE CS-CAUS DTH  | GAR      |
| 01/23/18 | FILING DATE 012318   | GAR      |
| 1        | AUTHORIZATION OF COMPLAINT DATE<br>PROS VAILLIENCOURT, WILLI P-39115 | GAR      |
|          | COMPLAINT ISSUANCE DATE  | GAR      |
|          | MISCELLANEOUS ACTION ALL COUNTS                                      | GAR      |
|          | CO-DEFENDANT DANIELLE HANNAFORD, KELLY                               | GAR      |
|          | WHITLOW  | GAR      |
|          | WARRANT ENTRY REQUESTED 12318 237P                                   | GAR      |
|          | SYSDNO (20:) GENERATED BY LEIN<br>46610257                           | GAR      |
|          | WARRANT ENTERED INTO LEIN  | GAR      |
| 1        | ORDER FOR FINGERPRINTS GENERATED<br>CS-CAUS DTH                      | GAR      |
|          | ORDER FOR FINGERPRINTS GENERATED                                     |          |

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**BEAUMONT HEALTH**

ROYAL OAK HOSPITAL  
 3601 W THIRTEEN MILE RD  
 ROYAL OAK MI 48073-6712  
 Discharge Summary

Redaction separate from public filing Anne  
 MRN: 1568410, DOB: 3/15/ Redaction Sex: F  
 Acct #: Redaction separate from public filing  
 Adm: 10/9/2015, Dsc: 10/11/2015

**Guarantor Account (for Hospital Account # Redaction separate from public filing) (continued)**

|                                       |                               |
|---------------------------------------|-------------------------------|
| Address                               | Phone                         |
| Redaction separate from public filing | 248- Redaction Separate f (H) |
| BERKLEY, MI 48072-1060                | 248- Redaction (O)            |

**Coverage Information (for Hospital Account Redaction separate from public filing)**

Redaction separate from public filing

**Admission Information**

|   |   |  |  |
|---|---|--|--|
| Attending Provider<br>Lonappan, Linet P, MD | Admitting Provider<br>Lonappan, Linet P, MD | Admission Type<br>Emergent                 | Admission Date/Time<br>10/09/15 1713   |
| Discharge Date<br>10/11/15                  | Hospital Service<br>.RO-MED                 | Auth/Cert Status<br>OPPM Complete          | Service Area<br>BEAUMONT HEALTH SYSTEM |
| Unit<br>6 ST GYN TEAM CARE A                | Room/Bed<br>6305/06/6306                    | Admission Status<br>Discharged (Confirmed) | Referring Provider                     |
| Point of Origin<br>BHS - Home               |   |  |  |
| Accident Date                               | Accident Time                               |  |  |

**Admission**

Complaint  
 Left-sided low back pain with left-sided sciatica [M54.42] Lumbar radiculopathy [M54.16] , Lumbar Spinal Stenosis

**Admission Diagnoses / Reasons for Visit (ICD-10-CM)**

| Code   | Description                      | Comments |
|--------|----------------------------------|----------|
| M54.16 | Radiculopathy, lumbar region     |          |
| M54.42 | Lumbago with sciatica, left side |          |

**Final Diagnoses (ICD-10-CM)**

| Code                  | Description                  | POA | CC | HAC | Affects DRG |
|-----------------------|------------------------------|-----|----|-----|-------------|
| M54.16<br>[Principal] | Radiculopathy, lumbar region |     |    |     |             |

Redaction separate from public filing

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1 MS. DELVERO: -- is 333.74012A4. That is the  
2 PAC code. What's in the email that is attached to the  
3 plea form is the statute number. They are pretty similar,  
4 but not exact.

5 THE COURT: Okay. Very good.

6 All right. Ms. Hannaford, raise your right hand  
7 to be sworn. Do you swear to tell the truth, the whole  
8 truth, and nothing but the truth in the matter now pending  
9 before this Court?

10 THE DEFENDANT: Yes, sir.

11 DANIELLE LYNN HANNAFORD

12 (At 9:53 a.m., having been called and sworn by  
13 the Court, testified as follows.)

14 THE COURT: All right. You can put your hand  
15 down.

16 What's your name, young lady?

17 THE DEFENDANT: Danielle Hannaford.

18 THE COURT: And how old are you?

19 THE DEFENDANT: Redaction separate

20 THE COURT: What's your date of birth?

21 THE DEFENDANT: 11/2 Redact / Redaction separate

22 THE COURT: How far did you go in school?

23 THE DEFENDANT: Eleventh grade.

24 THE COURT: Where did you last attend high  
25 school at?

and Health Services (WSU), was terminated on November 27, 2017.

2. [Redacted] began working for Wayne State University on March 11, 1974 and had served WSU with dedication for 43 years when WSU fired her.

3. [Redacted] was born on February 7, [Redacted] and was [Redacted] years old when WSU fired her.

4. [Redacted] brings this action because WSU terminated her because of her age, disability, and in retaliation for taking a Family and Medical Leave Act leave.

#### JURISDICTION, PARTIES, AND VENUE

5. [Redacted] is a citizen of the United States and resides in Macomb County, Michigan.

6. The Board of Governors for Wayne State University is a constitutional agency of the State of Michigan and operates the Eugene Applebaum College of Pharmacy and Health Services.

7. Venue in this court is proper because the University is located in Wayne County. All of the events giving rise to this cause of action occurred in Wayne County.

8. This court has jurisdiction over WSU under the Elliott Larsen Civil Rights Act ("ELCRA") MCL 37.2101 *et seq.* and the Michigan Persons With Disabilities Civil Rights Act ("PWDCRA"), M.C.L. § 37.1101, *et seq.* because WSU is an employer under the ELCRA and the PWDCRA.

9. The amount in controversy exceeds \$25,000.

#### STATEMENT OF FACTS

10. [Redacted] began her employment with WSU on March 11, 1974. She was first employed as an Office Assistant.

interview, Defendant selected an external candidate that was substantially younger than Plaintiff and Caucasian, who did not meet the minimum qualifications of the job. The proffered reason for selecting the substantially younger and Caucasian applicant was that “he was the best fit.” Not only did Defendant provide a subjective reason for selecting the younger, white applicant, but Defendant also engaged in a number of irregularities during the interview process. For instance, the interview panelists completed evaluation score sheets. They reduced Plaintiff’s scores and failed to score certain questions, while at the same time, they added a significant amount of points and changed scores upwards to make the younger Caucasian applicant appear superior. Accordingly, Plaintiff filed the instant cause of action, alleging age and race discrimination in violation of the Elliott-Larsen Civil Rights Act.

#### STATEMENT OF FACTS

Plaintiff, an African-American, was born on **October 21, 1954** and is currently sixty-three (63) years old. (**Exhibit 1** – Redaction separate **Deposition at 5**). In January 1989, Plaintiff began working as a part-time Employee Health Technician at St. Luke’s Hospital. (**Ex. 1 at 11**). At the time, Plaintiff was a licensed practical nurse and assisted with pre-employment physicals and other employment related matters. (**Ex. 1 at 11**). Plaintiff subsequently became a full-time employee and assumed the role of Human Resources Technician. (**Ex. 1 at 12**). When St. Luke’s merged with Saginaw General Hospital in 1998 to create Defendant, Plaintiff became a Human Resources Specialist, a recruiter. (**Ex. 1 at 15**). Plaintiff held the position for the next eighteen (18) years.

In 2016, two Human Resources Consultants, Lisa Killey and Ashley Warmbier,

## DEFENDANTS' MOTION TO COMPEL EXAMINATION

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2. During the course of discovery, plaintiffs' counsel agreed that [Redaction separate from public filing] who is a 17 year old minor with a date of birth of February [Redaction separate from public filing], would undergo a neuropsychological evaluation to be performed by defendant's neuropsychology expert Jennifer Huffman, PhD.

3. As part of his investigation and discovery into [Redaction separate from public filing]'s current mental condition and claim for damages, on October 30, 2018, defense counsel forwarded a proposed Stipulated Order Regarding Medical Examination of [Redaction separate from public filing] by Jennifer Huffman, PhD. (*See Exhibit B*, Stipulated Order and Email).

4. Plaintiffs' counsel made several proposed changes to order. For example, plaintiffs seek to have third party observers present in the room during Jennifer Huffman, PhD's evaluation of [Redaction separate from public filing], view the testing from a position where [Redaction separate from public filing]'s face if visible to her parents and hear the testing and arrange for videotaping of the testing. Also, plaintiffs seek to have a list of any questions Jennifer Huffman, PhD asks during her examination be provided to plaintiffs within five days of her evaluations. (*See Exhibit C*, Order for Defense-Requested Neuropsychological Exam and Email Chain between counsels). Plaintiffs' proposed changes, however, set unacceptable, annoying, burdensome and intrusive conditions which would inappropriately affect the performance of the neuropsychological evaluation and go against ethical standards of practice for psychologists in Michigan. (*See Exhibit D*, Affidavit of Jennifer Huffman with Curriculum Vitae and *Exhibit E*, Supporting Literature). Therefore, defense counsel could not agree to the proposed changes necessitating the instant motion.

5. Pursuant to MCR 2.302(B)(1), parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.



Original - 001a  
1st copy - Corrections  
2nd copy - Corrections (for return)  
copy - Michigan State Police CJIC  
copy - Defendant  
5th copy - Prosecutor

Approved, SCAO

STATE OF MICHIGAN  
10<sup>th</sup> JUDICIAL CIRCUIT  
SAGINAW COUNTY

JUDGMENT OF SENTENCE  
COMMITMENT TO  
DEPARTMENT OF CORRECTIONS

CASE NO.  
16-042719-FC

ORI  
MI-730015J  
Police Report No.

Court address  
111 S. Michigan Ave., Saginaw, Michigan 48602

Court telephone no.  
(989)790-5471

THE PEOPLE OF THE STATE OF MICHIGAN

The State of Michigan

v

Defendant's name, address, and telephone no.

Propp, Robert Lance

Redaction separate from public filing

CTN/TCN  
73-16-003762-01

SID

20

Redaction separate from public filing

DOB

3/

Redaction separate from public filing

Defendant attorney's name

Johnson, Edwin Griffi

Bar no.

P74038

Prosecuting attorney's name

Blair N. Stevenson

Bar no.

P74911

THE COURT FINDS:

1. The defendant was found guilty on 2/13/18 Date of the crime(s) stated below.

| Count | CONVICTED BY |       |      | DISMISSED BY* | CRIME                                | CHARGE CODE(S)<br>MCL citation/PACC Code |
|-------|--------------|-------|------|---------------|--------------------------------------|--|
|       | Plea*        | Court | Jury |               |                                      |  |
| 2     |              |       | X    |               | MURDER-1ST-PREMED<br>HOA 4TH OFFENSE | 750.316-A<br>769.12                      |
|       |              |       |      |               |                                      |  |
|       |              |       |      |               |                                      |  |

\*Insert "G" for guilty plea, "NC" for nolo contendere, or "M" for guilty but mentally ill, "D" for dismissed by court, or "NP" for dismissed by prosecutor/plaintiff.

- 2. The conviction is reportable to the Secretary of State under MCL 257.625(21)(b). P-610 Defendant's driver's license number
- 3. HIV testing and sex offender registration are completed.
- 4. The defendant has been fingerprinted according to MCL 28.243.
- 5. A DNA sample is already on file with the Michigan State Police from a previous case. No assessment is required.

IT IS ORDERED:

- 6. Probation is revoked.
- 7. Participating in a special alternative incarceration unit is  prohibited.  permitted.
- 8. The defendant is sentenced to custody of the Michigan Department of Corrections. This sentence shall be executed immediately.

| Count | SENTENCE DATE | MINIMUM |      |      | MAXIMUM |      |      | DATE SENTENCE BEGINS | JAIL CREDIT |      | OTHER INFORMATION |
|-------|---------------|---------|------|------|---------|------|------|----------------------|-------------|------|-------------------|
|       |               | Years   | Mos. | Days | Years   | Mos. | Days |                      | Mos.        | Days |                   |
| 2     | 3/26/18       | LIFE    |      |      |         |      |      | 3/26/18              |             | 628  | WITHOUT PAROLE    |
|       |               |         |      |      |         |      |      |                      |             |      |                   |
|       |               |         |      |      |         |      |      |                      |             |      |                   |

- 9. Sentence(s) to be served consecutively to (If this item is not checked, the sentence is concurrent.)  
 each other.  case numbers \_\_\_\_\_

10. The defendant shall pay:

| State Minimum | Crime Victim | Restitution | DNA Assess. | Court Costs | Attorney Fees | Fine | Other Costs | Total       |
|---------------|--------------|-------------|-------------|-------------|---------------|------|-------------|-------------|
| \$68.00       | \$130.00     | \$15,793.00 |             |             |               |      |             | \$15,991.00 |

The due date for payment is 4/26/18. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

- 11. The concealed weapon board shall  suspend for \_\_\_\_\_ days  permanently revoke the concealed weapon license, permit number \_\_\_\_\_, issued by \_\_\_\_\_ County.
- 12. The defendant is subject to lifetime monitoring under MCL 750.520n.

13. Court Recommendation:

3/26/18  
Date

Dore Jackson  
Judge Darnell Jackson P34737 Bar no.

I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay, deliver the defendant to the Michigan Department of Corrections at a place designated by the department.

PRISON SMB (SEAL)

Sue Bidwell  
Deputy court clerk Susan M. Bidwell