

CLASSACTION, CLOSED

**United States District Court
Western District of Michigan (Southern Division (5))
CIVIL DOCKET FOR CASE #: 5:99-cv-00105-DWH**

Olesky, et al v. MDOCH, et al
Assigned to: Senior Judge Douglas W. Hillman
Demand: \$0
Case in other court: Ingham Cnty Cir Ct, 99-90473-CZ
Cause: 28:1441 Petition for Removal

Date Filed: 09/15/1999
Date Terminated: 11/13/2001
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

plaintiff

Michael Olesky
*individually and on behalf of all others
similarly situated*

represented by **Calvin A. Luker**
Michigan Protection & Advocacy Service,
Inc.
29200 Vassar Blvd., Ste. 501
Livonia, MI 48152-2192
(248) 473-2990
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody
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(517) 487-1755
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Marsha Lynn Tuck
Michigan Protection & Advocacy Service,
Inc.
29200 Vassar Blvd., Ste. 501
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(248) 473-2990
TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart R. Hakola
401 N. Front St.
Marquette, MI 49855
(906) 228-9809
TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Linda Perez
*by her guardian, Elvira Perez;
individually and on behalf of all others
similarly situated
by guardian
Elvira Perez*

represented by **Calvin A. Luker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Marsha Lynn Tuck
(See above for address)

TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart R. Hakola
(See above for address)
TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Nicholas Crison
by his guardian, Alice Richmond of
Guardian Inc. of Calhoun Co.,
individually and on behalf of all others
similarly situated
by guardian
Alice Richmond

represented by **Calvin A. Luker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Marsha Lynn Tuck
(See above for address)
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stewart R. Hakola
(See above for address)
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Bernice Schoonmaker
by her guardian, Bonnie Camburn of
Guardian Inc. of Calhoun Co.,
individually and on behalf of all others
similarly situated
by guardian
Bonnie Camburn

represented by **Calvin A. Luker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody
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Marsha Lynn Tuck
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ATTORNEY TO BE NOTICED

Stewart R. Hakola
(See above for address)
TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Rebecca Stephens
individually and on behalf of all others
similarly situated

represented by **Calvin A. Luker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Marsha Lynn Tuck
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Stewart R. Hakola
(See above for address)
TERMINATED: 02/18/2000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

David Watts
individually and on behalf of all others
similarly situated

represented by **Calvin A. Luker**
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LEAD ATTORNEY
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Mark A. Cody
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Stewart R. Hakola
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Michigan Protection and Advocacy Service
individually and on behalf of all others
similarly situated

represented by **Calvin A. Luker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Cody
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

defendant

Michigan Department of Community Health

represented by **Santiago Rios**
Michigan Department of Attorney General
Community Health Division
P.O. Box 30217
Lansing, MI 48909
(517) 373-3488
Email: RiosS3@michigan.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

defendant

James K. Haveman, Jr.
*in his official capacity; Director,
 Michigan Dept of Community Health*

represented by **Santiago Rios**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

defendant

David T. Verseput
*in his official capacity; Director, Office of
 Specialized Nursing Home/OBRA
 Programs*

represented by **Santiago Rios**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/15/1999	1	NOTICE OF REMOVAL (24 pgs) by defts w/attached state court documents [including summonses and complaint (exhibit A)]; from Ingham County Circuit Court Case Number: 99-90473-CZ (cmi) (Entered: 09/22/1999)
09/15/1999	2	ATTORNEY APPEARANCE by defts MI Dept Cmnty Health, James K. Haveman Jr., and David T. Verseput adding attorney Santiago Rios (cmi) (Entered: 09/22/1999)
09/15/1999	3	PROOF OF SERVICE by defts for pldgs #1 and #2 (cmi) (Entered: 09/22/1999)
09/15/1999	4	RECEIPT #104101 in the amount of \$150.00 submitted by defts for filing fee (cmi) (Entered: 09/22/1999)
09/21/1999		RECEIPT OF CASE LETTER sent to all counsel of record (cmi) (Entered: 09/22/1999)
09/21/1999		ADMITTANCE requirement letter mailed to attorney Calvin A. Luker (cmi) (Entered: 09/22/1999)
10/13/1999	5	ORDER Scheduling Rule 16 Status Conference by Senior Judge Douglas W. Hillman; status conf set for 2:30 p.m. on 11/17/99 before Mag Judge Brenneman; joint status report to be filed 3 business days prior to the conference (cc: all counsel w/DCM and VFM attachments) (gjf) (Entered: 10/15/1999)
10/15/1999	6	ANSWER to complaint by defts w/affirmative defenses and proof of svc (gjf) (Entered: 10/19/1999)
10/20/1999	7	STIPULATION AND ORDER (2 pgs) by Senior Judge Douglas W. Hillman: defts shall have until 10/15/99 to respond to pltf's complaint; defts need not respond at this time to pltf's first set of interrogatories which were filed prior to removal of this action to this court; the parties shall meet on 10/21/99 at 10:00 a.m. to develop a proposed discovery plan and to discuss other matters specified in FRCP P. 26(f) (cc: all counsel 10/21/99) (skb) (Entered: 10/21/1999)
10/28/1999	8	MOTION by pltf's for class certification, O/A requested w/brief in support, Exh A, prf of svc, and proposed Order (ddk) (Entered: 11/02/1999)
10/28/1999		ATTORNEY Calvin A. Luker admitted to practice (ddk) (Entered: 11/05/1999)
11/12/1999	9	NOTICE of hearing before Senior Judge Douglas W. Hillman: setting oral argument on pltf's motion for class certification [8-1] at 10:00 am on 12/16/99 (cc: all counsel) (ddk) (Entered: 11/15/1999)
11/15/1999	10	JOINT STATUS REPORT by pltf's and deft w/prf of svc (ddk) (Entered: 11/15/1999)
11/17/1999	11	RESPONSE IN OPPOSITION by deft to pltf's motion for class certification [8-1], brief in support, and prf of svc (ddk) (Entered: 11/17/1999)
11/17/1999		PROCEEDING before Magistrate Judge Hugh W. Brenneman Jr.: Rule 16 Scheduling Conference held; Recorder: M. Jewell; Tape B99-249 (ddk) Modified on 11/19/1999 (Entered: 11/19/1999)

11/24/1999	12	CASE MANAGEMENT ORDER (2 pgs) by Senior Judge Douglas W. Hillman; at the Rule 16 conf defts advised that they intend to file a pre-discovery dispositive motion by 11/24/99; the parties believe that until the issues raised in that motion are resolved, no further ddls should be set in this case; in the meantime, the parties agree to proceed w/discovery and all discovery shall be completed NLT 10/21/00; interrogatories will be limited to 15 single-part questions and depositions will be limited to 5 fact witnesses per party; pltfs have filed a motion for class certification – the Court previously set this motion for hearing on 12/16/99 however the parties advised the Court at the Rule 16 conf that hearing on that motion is premature and the court hereby adjourns that hearing to a date to be set by the court; ADR not mentioned; this case is assigned to Track V highly complex track (cc: all counsel 11/24/99) [EOD Date 11/26/99] (skb) (Entered: 11/26/1999)
12/03/1999	13	REPLY BRIEF by pltfs supporting class certification w/prf of svc (ddk) (Entered: 12/06/1999)
12/06/1999	14	MOTION by defts to dismiss, or, in the alternative, for summary judgment w/brief in support, attachments, and prf of svc (ddk) (Entered: 12/08/1999)
12/17/1999	15	PROOF OF SERVICE by defts for answer to pltfs' first set of interrogatories (gjf) (Entered: 12/20/1999)
01/10/2000	16	BRIEF IN OPPOSITION by pltfs to defts' motion to dismiss and for summary judgment [14-1,2] w/attachments, Exhs A-B, prf of svc; O/A requested (ddk) (Entered: 01/12/2000)
02/22/2000	17	SUBSTITUTION/ATTORNEY APPEARANCE by pltfs adding attorney Mark A. Cody in place of and withdrawing attys Stewart R. Hakola and Marsha Lynn Tuck, and cert of svc (ddk) Modified on 02/22/2000 (Entered: 02/22/2000)
02/24/2000	18	NOTICE of hearing before Senior Judge Douglas W. Hillman: setting oral argument on pltfs' motion for class certification [8-1] and deft's motion to dismiss and/or for summary judgment [14-1,2] at 10:00 am on 4/17/00 (cc: all counsel) (ddk) (Entered: 02/24/2000)
03/07/2000	19	NOTICE of hearing before Senior Judge Douglas W. Hillman: Oral Argument re pltfs' motion for class certification [8-1] and deft's motion to dismiss or in the alternative for summary judgment [14-1,2] set for 10:00 am on 4/27/00 (cc: all counsel) (ddk) (Entered: 03/08/2000)
03/20/2000	20	MOTION by pltfs to amend the complaint by adding a party pltf w/memorandum in support, Exhibit A, proposed first amended complaint and prf of svc (skb) (Entered: 03/21/2000)
03/21/2000	21	ORDER OF REFERENCE TO THE MAGISTRATE (1 pg) by Senior Judge Douglas W. Hillman: pltfs' motion to amend the complaint by adding a party pltf [20-1] is referred to Magistrate Judge Hugh W. Brenneman Jr. (cc: all counsel 3/22/00) [EOD Date 3/22/00] (ddk) (Entered: 03/22/2000)
03/22/2000	22	NOTICE of hearing: before Magistrate Judge Hugh W. Brenneman Jr. on pltfs' motion to amend the complaint [20-1]; set for 10:30 am on 4/25/00 (cc: all counsel) (ddk) (Entered: 03/22/2000)
03/29/2000	23	ORDER (1 pg) by Senior Judge Douglas W. Hillman withdrawing Order of Reference to the Magistrate [21-1] re pltfs' motion to amend complaint (dkt #20); cancelling notice of hearing set by Magistrate Judge Hugh W. Brenneman Jr. [22-1]; and scheduling hearing before Sr. Judge Douglas W. Hillman re pltf's motion to amend the complaint [20-1] at 10:00 am on 4/27/00 (cc: all counsel) [EOD Date 3/29/00] (ddk) (Entered: 03/29/2000)
04/06/2000	24	BRIEF IN OPPOSITION by defts to pltfs' motion to amend the complaint by adding a party pltf [20-1] w/attached exh A and prf of svc (ddk) (Entered: 04/10/2000)
04/20/2000	25	MOTION by pltfs for leave to file a reply brief to defts' brief in opposition to pltf's motion to amend complaint w/prf of svc (ddk) (Entered: 04/24/2000)

04/24/2000	26	ORDER ALLOWING FILING OF REPLY BRIEF (1 pg) by Senior Judge Douglas W. Hillman granting pltf's motion for leave to file a reply brief to defts' brief in opposition to pltf's motion to amend complaint [25-1] (cc: all counsel) [EOD Date 4/26/00] (ddk) (Entered: 04/26/2000)
04/24/2000	27	REPLY BRIEF by pltfs to defts' brief in opposition to pltfs' motion to amend the complaint [20-1] w/Exh A-E (ddk) (Entered: 04/26/2000)
04/27/2000		PROCEEDING before Senior Judge Douglas W. Hillman; oral argument and rulings on three motions: (1) defts' motion to dismiss (dkt #14) is denied; (2) pltf's motion for class certification (dkt #8) is held in abeyance pending further discovery and supporting documentation to be submitted nlt 6/30/00; and (3) pltf's motion to amend complaint (dkt #20) is granted; order to follow; Ct reporter: Pat Pritchard (ddk) (Entered: 04/28/2000)
05/01/2000	28	ORDER (2 pgs) by Senior Judge Douglas W. Hillman denying defts' motion to dismiss [14-1]; granting pltfs' motion to amend the complaint [20-1]; and holding in abeyance pltfs' motion for class certificate [8-1] pending further discovery and submission of additional supporting documents which shall be filed nlt 6/30/00 (cc: all counsel) [EOD Date 5/1/00] (ddk) (Entered: 05/01/2000)
05/04/2000	29	FIRST AMENDED COMPLAINT (21 pgs) [1-2]; adding pltf MI Protection Advoc; w/prf of svc (ddk) (Entered: 05/08/2000)
07/03/2000	32	PROOF OF SERVICE by pltf for copies of the stipulation and order (krv) (Entered: 07/10/2000)
07/05/2000	30	STIPULATION that counsel for pltfs should be granted until 8/31/00 to file additional supporting documentation in support of their motion for class certification and that the discovery ddls set forth by previous order should be extended by an additional 60 days w/proposed order (skb) (Entered: 07/06/2000)
07/05/2000	31	ORDER (1 pg) by Senior Judge Douglas W. Hillman; in accordance w/the parties' stipulation (docket #30) it is ordered that the pltfs' motion for class certification continues to be held in abeyance pending further discovery and the submission of additional documentation, which shall be filed NLT 8/31/00; the Discovery ddl is extended to 10/21/00 (cc: all counsel 7/5/00) [EOD Date 7/6/00] (skb) (Entered: 07/06/2000)
08/31/2000	33	ADDITIONAL DOCUMENTATION (supplement) by pltfs in support of motion for class certification [8-1] with proof of service (mj) (Entered: 09/06/2000)
08/31/2000	34	PROOF OF SERVICE by pltfs for requests for admissions (mj) (Entered: 09/06/2000)
09/28/2000	35	JOINT MOTION for extension of discovery deadline for add'l 60 days (mj) (Entered: 10/02/2000)
10/11/2000	36	ORDER (1 pg) by Senior Judge Douglas W. Hillman granting motion for extension of discovery deadline [35-1] ; discovery ddl extended to 12/21/00 ; pltfs' mtn for class certification continues to be held in abeyance (cc: all counsel on 10/11/00) [EOD 10/13/00] (mj) Modified on 07/27/2001 (Entered: 10/13/2000)
12/06/2000	37	JOINT MOTION (for order) to dissolve 12/21/00 discovery ddl and set status conference in early 2001 w/brief in support (mj) (Entered: 12/06/2000)
12/15/2000	38	ORDER (1 pg) by Senior Judge Douglas W. Hillman granting joint motion to dissolve 12/21/00 discovery ddl and set status conference [37-1]; order establishing deadline for discovery and for submission of add'l materials in connection w/the pending mtn for class certification [36-1] and [36-2] is vacated ; status conf set for 2:00 p.m. on 1/31/01 before Hon. Hugh W. Brenneman, Jr.; nlt 1/29/01 parties to submit to Judge Brenneman a joint report including such information needed to conduct a meaningful conferece (cc: all counsel on 12/15/00) [EOD 12/18/00] (mj) Modified on 07/27/2001 (Entered: 12/18/2000)
01/29/2001	39	JOINT REPORT with proof of svc (mj) (Entered: 01/30/2001)
01/31/2001		PROCEEDING before Magistrate Judge Hugh W. Brenneman Jr.; Rule 16 status Conf held ; recorded on tape B01-06 by G Frayer (mj) (Entered: 02/02/2001)

02/02/2001	40	AMENDED CASE MANAGEMENT ORDER (2 pgs) by Magistrate Judge Hugh W. Brenneman Jr.; parties shall have until 5/1/01 in which to complete settlement negotiations; if settlement is not reached, discovery shall be completed by 7/1/01; final ptc before Judge Hillman scheduled for 2:30 p.m. on 7/30/01; bench trial reset to 9:00 a.m. on 8/7/01; parties may request that a settlement conference be conducted by the court any time prior to trial (cc: all counsel on 2/2/01) [EOD 2/6/01] (mj) (Entered: 02/06/2001)
07/26/2001	41	ORDER (1 pg) by Senior Judge Douglas W. Hillman ; final pretrial conference and trial adjourned w/out date ; case referred to Magistrate Judge Hugh W. Brenneman Jr. for purposes of conducting a settlement conference, and if necessary, for issuance of an order setting forth appropriate ddls for conclusion of this litigation (cc: all counsel on 7/26/01) [EOD 7/27/01] (mj) (Entered: 07/27/2001)
07/31/2001	42	NOTICE of hearing by Magistrate Judge Joseph G. Scoville setting settlement conference for 10:30 a.m. on 8/13/01 (cc: all counsel) (mj) (Entered: 07/31/2001)
08/02/2001	43	NOTICE of hearing by Magistrate Judge Hugh W. Brenneman, Jr. resetting settlement conf and status conf from 8/13/01 to 9:30 a.m. on 8/21/01 (cc: all counsel) (mj) (Entered: 08/03/2001)
08/21/2001		PROCEEDING before Magistrate Judge Hugh W. Brenneman Jr.; status/settlement conference held; settlement reached by parties and placed on the record ; parties to file a motion for clarification of the Court's 5/1/01 Order which is to be decided by Judge Hillman; parties to submit final settlement agreement to Court w/i 10 days; Ct recorder: DDKettner; Tape B01-149 (ddk) (Entered: 08/22/2001)
09/14/2001	44	MOTION by pltfs to clarify the Court's order of 5/1/00 w/brief in support and exhibits A-c (mj) (Entered: 09/18/2001)
09/18/2001	45	PROOF OF SERVICE by pltfs for pldg #44 (mj) (Entered: 09/19/2001)
10/01/2001	46	RESPONSE by defts in opposition to pltfs' motion to clarify the Court's order of 5/1/00 [44-1] w/exhibits 1-2, attachments I-II and proof of svc (mj) (Entered: 10/02/2001)
10/02/2001	47	NOTICE of hearing by Judge Hillman scheduling argument on pltfs' motion to clarify [44-1] and status conf for 9:30 a.m. on 10/26/01 (cc: all counsel) (mj) (Entered: 10/02/2001)
10/26/2001		PROCEEDING before Senior Judge Douglas W. Hillman; oral argument on motion for clarification of court's 5/1/00 order [44-1] adjourned ; status conf on settlement agreement ; proceedings not recorded (mj) (Entered: 10/26/2001)
11/13/2001	48	SETTLEMENT AGREEMENT (mj) (Entered: 11/15/2001)
11/13/2001	49	ORDER (2 pgs) by Senior Judge Douglas W. Hillman approving settlement agreement [ref #48] (cc: all counsel on 11/13/01) [EOD 11/15/01] (mj) (Entered: 11/15/2001)
11/13/2001	50	OPINION (8 pgs) by Senior Judge Douglas W. Hillman denying pltfs' motion to clarify order of 5/1/00 [#44] (cc: all counsel on 11/13/01) [EOD 11/15/01] (mj) (Entered: 11/15/2001)
11/13/2001	51	ORDER (1 pg) by Senior Judge Douglas W. Hillman denying pltfs' motion to clarify the Court's order of 5/1/00 [44-1] and dismissing case w/prejudice; case terminated (cc: all counsel on 11/13/01) [EOD 11/15/01] (mj) (Entered: 11/15/2001)