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## Court says surfing web sites not enough to verify expertise of defendant doctors

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Experienced web surfers know that you cannot trust everything you read on the Internet. That was certainly the message the Michigan Court of Appeals sent in their recent decision in *Lutz v Mercy Mt. Clemens Corp, et al.*, (No. 261465, rel'd 12/20/05)(unpublished).

The court held that the plaintiff's sole reliance on the defendant hospital's web site to determine whether the defendants shared the board certification of the plaintiff's expert was not sufficient to establish a reasonable belief as required by MCL 600.2169(1). This decision is significant because it narrows when plaintiffs may argue they had a "reasonable belief" their expert was properly qualified.

In *Lutz*, the plaintiff went to St. Joseph's Mercy Macomb ("Mercy") because she had cut her finger. She was treated for the laceration by two doctors, both of whom allegedly failed to diagnose her tendon injury.

One doctor was board certified in internal medicine. He was listed on Mercy's web site as board eligible in internal medicine. The second doctor was board certified in family practice. Mercy's web site indicated she was board certified and that her specialty was urgent care. The plaintiff filed her complaint with an affidavit of merit signed by her "expert" doctor, who is board certified in emergency medicine.

The defendants moved for summary disposition on the ground that the practice and certification of the plaintiff's expert did not match those of the defendants. The trial court denied the motion, holding that the plaintiff acted reasonably in relying on the information on Mercy's web site to determine her affidavit of merit conformed with MCL 600.2169(1)'s requirement that the board certifications of the plaintiff's expert match the defendant doctors'.

The appellate court reversed the trial court's ruling, and held that the plaintiff's sole reliance on Mercy's web site to determine that the defendants shared the board certification of the plaintiff's expert's was not sufficient to establish a reasonable belief as required by MCL 600.2169(1).

In reaching its conclusion, the court stated that the plaintiff's attorney was free to consult such resources as the web site of the American Medical Association or "*The Official American Board of Medical Specialties Directory of Board Certified Medical Specialists*" to resolve any ambiguities. Instead, the plaintiff simply assumed too much from the vague indications on Mercy's web site. Accordingly, the court remanded the case to the trial court with instructions to grant summary disposition to all remaining defendants.

For a complete copy of *Lutz v Mercy Mt. Clemens Corp, et al.*, [click here](#).

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