

CASE NO. 08-2228

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

KAREN WAESCHLE, individually, and on behalf of others similarly situated,

Plaintiffs-Appellees,

v.

OAKLAND COUNTY MEDICAL EXAMINER, LJUBISA J. DRAGOVIC,
M.D., individually and in his official capacity as Medical Examiner of Oakland
County, Michigan, and on behalf of Others similarly situated, et al.,

Defendants-Appellants.

***AMICUS CURIAE* MICHIGAN STATE MEDICAL SOCIETY'S
CONCURRENCE IN THE AMENDED BRIEF OF *AMICI CURIAE*
MICHIGAN ASSOCIATION OF MEDICAL EXAMINERS, NATIONAL
ASSOCIATION OF MEDICAL EXAMINERS, WAYNE COUNTY,
MICHIGAN, MICHIGAN ASSOCIATION OF COUNTIES, AND KENT
COUNTY, MICHIGAN**

SUPPORTING APPELLANTS AND URGING REVERSAL

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *Amicus Curiae* Michigan State Medical Society states that it is not a public corporation that issues stock.

KERR, RUSSELL AND WEBER, PLC

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Dated: February 6, 2009

TABLE OF CONTENTS

STATEMENT OF INTEREST OF AMICUS CURIAE.....1

STATEMENT OF FACTS3

SUMMARY OF ARGUMENT4

ARGUMENT.....5

CONCLUSION.....6

CERTIFICATE OF COMPLIANCE7

STATEMENT OF INTEREST OF AMICUS CURIAE
MICHIGAN STATE MEDICAL SOCIETY

Amicus Curiae Michigan State Medical Society (“MSMS”) is a professional association that represents the interests of over 15,000 physicians in the State of Michigan. Organized to promote and protect the public health and to preserve the interests of its members, MSMS has a continuing interest in issues which affect the medical profession and the patients it serves. Over the course of many years, MSMS has been privileged to share its views when issues pertinent to physicians have been presented to this Court and the Michigan appellate courts. The *Waeschle* decision presents such an issue.

MSMS’ members includes pathologists and practicing medical examiners. The standards of their profession will be directly impacted by the District Court decision. Requiring notification and control by family members of the disposition of all tissues and body parts following a medicolegal autopsy is, in many instances, impractical, undesirable from a public health standpoint, and bordering on the impossible. If allowed to stand, the District Court decision will have a chilling effect on forensic pathology in the State of Michigan.

For these reasons, and as set forth below, MSMS respectfully concurs in the Amended Brief of *Amici Curiae*, Michigan Association of Medical Examiners, National Association of Medical Examiners, Wayne County, Michigan, Michigan Association of Counties, and Kent County, Michigan supporting Appellants and

urging reversal of the District Court's September 18, 2008 order denying summary judgment with respect to Plaintiffs-Appellees' 42 U.S.C. § 1983 due process claim in *Waeschle v. Oakland County Medical Examiner*, No. 08-10393, 2008 U.S. Dist. LEXIS 73103 (E.D. Mich. Sept. 19, 2008) (unpublished).

STATEMENT OF FACTS

Amicus Curiae Michigan State Medical Society concurs in the Statement of Facts as stated by the Amended Brief of *Amici Curiae* Michigan Association of Medical Examiners, National Association of Medical Examiners, Wayne County, Michigan Association of Counties, and Kent County.

SUMMARY OF ARGUMENT

Amicus Curiae Michigan State Medical Society concurs in the Summary of Argument as stated by the Amended Brief of *Amici Curiae* Michigan Association of Medical Examiners, National Association of Medical Examiners, Wayne County, Michigan Association of Counties, and Kent County.

ARGUMENT

Amicus Curiae Michigan State Medical Society concurs in the Argument as stated by the Amended Brief of *Amici Curiae* Michigan Association of Medical Examiners, National Association of Medical Examiners, Wayne County, Michigan Association of Counties, and Kent County.

CONCLUSION

For the reasons stated in the Amended Brief of *Amici*, MSMS urges this Court to reverse the District Court's denial of summary judgment to Defendant-Appellants with respect to Plaintiffs-Appellees' Due Process claim under 42 U.S.C. § 1983 and direct the entry of summary judgment in favor of Defendants-Appellants.

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), I certify that the attached brief is proportionately spaced, has a typeface of 14 points and contains 445 words.

KERR, RUSSELL AND WEBER, PLC

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