IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Kennedy L Thomas v Bobby W Ferguson**
Docket No. **292445**
L.C. No. **05-529110-NO**

David H. Sawyer, Chief Judge Pro Tem, acting under MCR 7.203(F)(1) and MCR 7.211(E)(2), orders:

The claim of appeal is DISMISSED for lack of jurisdiction because a timely filed motion for postjudgment relief was pending when the appeal was filed. The time for filing an appeal in this situation commences with the entry of an order deciding the motion for postjudgment relief. MCR 7.204(A)(1)(b). In this case, appellants' timely motion for postjudgment relief was not decided until entry of the trial court's order of September 22, 2009.

The claim of cross appeal is also DISMISSED for lack of jurisdiction because cross-appellant is not entitled to a cross appeal where appellants do not have an appeal of right. MCR 7.207(A)(1).

The motion to amend appellants' docketing statement is DISMISSED as moot.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 09 2010
Date

Sandra Schultz Mengel
Chief Clerk