Court of Appeals, State of Michigan

ORDER

Estate of Eugene Wayne Hunt v Roger Drielick

Docket No. 297825

LC No. 96-003280-NI

Joel P. Hoekstra
Presiding Judge

Michael J. Talbot

Douglas B. Shapiro
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. Contrary to appellant's position, nothing in the language of the October 5, 2009 order provides that it is reversing or in any way disturbing the content of the August 18, 2009 order. Accordingly, the October 5, 2009 order cannot be considered a final order under the proviso to MCR 7.202(6)(a)(i) because the trial court did not reverse the August 18, 2009 order. Rather, the October 5, 2009 order is manifestly an attempt by the trial court to extend the time to file a claim of appeal. However, MCR 7.208(C)(1) precludes a trial court from extending the time for filing a claim of appeal. Thus, appellant could not properly claim an appeal from the October 5, 2009 order. Further, although not cited by the parties, MCR 7.204(A)(3) provides the only available remedy of an additional 14-day period for filing a claim of appeal where service of an order on a party desiring to appeal is delayed beyond the time provided in MCR 2.602. However, appellant did not avail itself of that remedy by filing a claim of appeal within that 14-day period. We note that we decline appellant's alternative request to treat its claim of appeal as an application for leave to appeal because appellant has considerable time to file a delayed application for leave to appeal under MCR 7.205(F).

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

JUL 21 2010
Date

Sandra Schultz Mengel
Chief Clerk