

Court of Appeals, State of Michigan

ORDER

Lisa Schweitzer v Matthew Schweitzer

Docket No. 299472

LC No. 2008-001332-DM

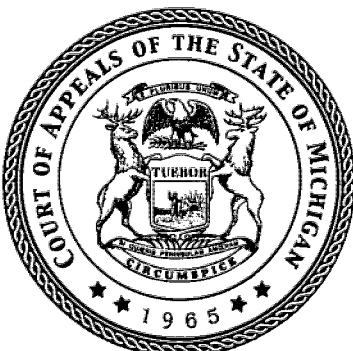
Mark J. Cavanagh
Presiding Judge

E. Thomas Fitzgerald

Pat M. Donofrio
Judges

Pursuant to MCR 7.205(D)(2), the Court orders that the trial court's July 14, 2010 order awarding attorney fees to plaintiff is REVERSED. Review of the record provided shows virtually no evidence from which one could conclude that defendant's motion to change custody was frivolous under MCL 600.2591(3)(A)(I). While the parties' post-divorce relationship was certainly contentious, it does not appear that defendant filed his motion to change custody primarily for the purpose of harassing, embarrassing, or injuring plaintiff. The trial court clearly erred by finding that defendant's motion to change custody was frivolous and awarding fees on that basis. *Kitchen v Kitchen*, 465 Mich 654, 661; 641 NW2d 245 (2002). In all other respects the application for leave to appeal is DENIED.

This Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 24 2011

Date


Chief Clerk