

Court of Appeals, State of Michigan

ORDER

Stephanie Maria Mallett v Alex Joseph Keebaugh

Docket No. 300635

LC No. 09-100092-NI

E. Thomas Fitzgerald
Presiding Judge

Mark J. Cavanagh

Henry William Saad
Judges

In lieu of granting the delayed application for leave to appeal, this Court orders pursuant to MCR 7.205(D)(2) that the June 4, 2010 order granting summary disposition with respect to the first accident only and dismissing plaintiff's claims against defendant Christopher DeForest Zenas is VACATED and this matter is REMANDED to the trial court for reconsideration of the question whether plaintiff has suffered a serious impairment of body function, MCL 500.3135, under *McCormick v Carrier*, 487 Mich 180; 795 NW2d 517 (2010). Although the trial court properly found that the issue presents a question of law under MCL 500.3135(2)(a) and referred to *McCormick* in its August 18, 2010 order denying reconsideration, it did not properly address the test set forth in *McCormick*. The trial court is directed to reconsider whether defendants are entitled to summary disposition by applying *McCormick* to determine whether plaintiff has met the serious impairment threshold by establishing:


(1) an objectively manifested impairment (observable or perceivable from actual symptoms or conditions) (2) of an important body function (a body function of value, significance, or consequence to the injured person) that (3) affects the person's general ability to lead his or her normal life (influences some of the plaintiff's capacity to live in his or her normal manner of living). [*McCormick*, *supra* 487 Mich at 215.]

This Court retains no further jurisdiction.



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

JUN 30 2011
Date


Chief Clerk