

Court of Appeals, State of Michigan

ORDER

Kyklos Bearing International LLC v General Motors LLC

Docket No. 301881

LC No. 2010-111554-CK

Mark J. Cavanagh
Presiding Judge

E. Thomas Fitzgerald

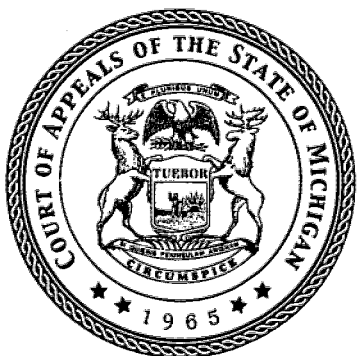
Pat M. Donofrio
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion for peremptory reversal pursuant to MCR 7.211(C)(4) is GRANTED and the circuit court's December 8, 2010 order denying defendant's motion for preliminary injunction and December 27, 2010 order denying reconsideration are REVERSED. Pursuant to MCR 7.216(A)(7) the Court ORDERS that plaintiff must specifically perform its obligations under the Supply Agreement by continuing to produce and deliver to defendant and its Tier 1 suppliers 100% of their requirements for the component parts covered by the agreement. This injunction shall continue until the circuit court issues its final judgment in the matter or until further order of this Court. The circuit court's finding that defendant was not likely to prevail on the merits of its claims was contrary to the evidence before it and clearly erroneous. *Pharmaceutical Research & Mfgs v Dept of Community Health*, 254 Mich App 397, 402-403; 657 NW2d 162 (2002). The circuit court's denial was based solely upon this erroneous finding; the court concluded that without a preliminary injunction defendant would suffer irreparable harm and that the public interest favored granting a preliminary injunction. There is no serious dispute that the irreparable harm faced by defendant will greatly outweigh any harm plaintiff might suffer due to the injunction. The circuit court abused its discretion by denying a preliminary injunction. *Detroit Fire Fighters Ass'n v Detroit*, 482 Mich 18, 34; 753 NW2d 579 (2008). The application is otherwise denied.

Defendant's motion for leave to file a reply to the answer is GRANTED.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



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

FEB 10 2011

Date

Larry S. Royster
Chief Clerk