

Court of Appeals, State of Michigan

ORDER

Clara Thomas v Auto-Owners Insurance Company

Docket No. 303790

LC No. 10-006168-NF

Kirsten Frank Kelly
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

On June 13, 2011, this Court issued an order holding the application for leave in abeyance and directed the court reporter to file the transcript of the March 18, 2011, hearing. The application is removed from abeyance, and the Court now orders that, in lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the April 7, 2011, order denying defendant's motion for reconsideration is VACATED and the matter is REMANDED for further proceedings. Specifically, the trial court shall re-examine its oral ruling from March 18, 2011, in light of *Muci v State Farm Mut Auto Ins Co*, 478 Mich 178; 732 NW2d 88 (2007). The trial court should consider whether plaintiff had submitted a claim to defendant for a closed-head injury prior to defendant's termination of benefits and prior to the initiation of her lawsuit. The trial court should also consider the applicable statutes, MCL 500.3151 and MCL 500.3159, not the court rules, in deciding whether defendant has demonstrated good cause for the requested medical examinations. Finally, the trial court shall enter a written order incorporating the ruling on remand.

The Court retains no further jurisdiction.



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

SEP 12 2011

Date


Chief Clerk