

Court of Appeals, State of Michigan

ORDER

Sylvia Spivey v United Services Automobile Association

Cynthia Diane Stephens
Presiding Judge

Docket No. 305130

Michael J. Talbot

LC No. 10-001803-NF

Christopher M. Murray
Judges

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

The Court further orders that the application for leave to appeal is HELD IN ABEYANCE and the matter is REMANDED to the Wayne County Circuit Court. After the circuit court entered the June 7, 2011, order, defendant filed a motion for reconsideration and/or relief from the order enforcing settlement due to mutual mistake and/or fraud. The following day, before plaintiff filed a response to the motion, the circuit court entered a praecipe order denying the motion. We find that the circuit court did not sufficiently address the second aspect of the motion, which essentially was requesting the circuit court to set aside the parties' acceptance of the case evaluation award. Without an articulation from the circuit court on the record for its reason to deny the relief, this Court cannot properly review the decision. See *Great American Ins Co v Old Republic Ins Co*, 180 Mich App 508, 510; 448 NW2d 493 (1989). See also *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 403; 651 NW2d 756 (2002), lv den 468 Mich 852 (2003), and *State Farm Mutual Auto Ins Co v Galen*, 199 Mich App 274, 277; 500 NW2d 769 (1993). Accordingly, the circuit court shall allow plaintiff an opportunity to file a response, and then conduct a hearing on defendant's motion seeking relief and enter a separate order within 56 days from the Clerk's certification of this order. The court shall also direct that the court reporter file a transcript of the hearing within 14 days from entry of the court's order, at defendant's expense. Defendant shall file a copy of the order and the transcript with this Court.

In light of the filing of the November 16, 2011, hearing transcript, the motion to waive the stay requirements of MCR 7.209(A)(3) is DENIED AS MOOT.

The motion for stay is GRANTED. Further proceedings and the directives contained in the November 16, 2011, order are STAYED until the remand matter is concluded and until further order of this Court.



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

DEC 12 2011

Date


Chief Clerk