

# Court of Appeals, State of Michigan

## ORDER

Andrea Rutkowski v Izabella Dyczkowska

Docket No. 308444

LC No. 12-001016-CZ

Christopher M. Murray  
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens  
Judges

The Court orders that motion for immediate consideration is GRANTED.


In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court further orders that the preliminary injunction order entered on February 2, 2012, is VACATED. In deciding whether to grant a request for a preliminary injunction, "[t]he trial court must evaluate: (1) the moving party made the required demonstration of irreparable harm, (2) the harm to the applicant absent such an injunction outweighs the harm it would cause to the adverse party, (3) the moving party showed that it is likely to prevail on the merits, and (4) there will be harm to the public interest if an injunction is issued." *Detroit Fire Fighters Ass'n, IAFF Local 344 v City of Detroit*, 482 Mich 18, 34; 753 NW2d 579 (2008). The trial court erred in several respects in issuing the injunction. First, the trial court erred in entering an injunction without evaluating all four factors required under *Detroit Fire Fighters*, as the trial court only considered factor (3) at the show-cause hearing and did not articulate any analysis of the other factors on the record. Second, the trial court was not required to resolve the parties' disputed contract interpretation, but was only required to analyze whether plaintiffs were likely to prevail on the merits. By resolving the dispute in plaintiffs' favor and entering an order enjoining defendant until November 26, 2012, the trial court effectively entered a permanent injunction, for which defendant did not have an adequate notice and opportunity to defend. See *Bratton v DAIIE*, 120 Mich App 73, 79; 327 NW2d 396 (1982). Accordingly, this matter is REMANDED for further proceedings consistent with this order. The Court retains no further jurisdiction.



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

FEB 23 2012

Date

  
Chief Clerk