

Court of Appeals, State of Michigan

ORDER

Gregory White v Titan Insurance Company

Docket No. 308751

LC No. 10-004937-NF

Karen M. Fort Hood
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the February 1, 2012, order of the Wayne County Circuit Court is VACATED. Plaintiff was the passenger in a vehicle owned and operated by his mother, Linda White, who had obtained a policy of insurance from Travelers Insurance Company in the state of Ohio. Travelers Insurance apparently filed the certification set forth under MCL 500.3163(1). It appears that the trial court ruled at the hearing conducted on January 19, 2012, that MCL 500.3163(1) was not applicable because plaintiff, Gregory White, was a resident of Michigan. This analysis was erroneous. See *Tevis v Amex Assurance Co*, 283 Mich App 76, 83-85; 770 NW2d 16 (2009). The trial court should have examined and ruled as to whether Linda White was not a nonresident, which would render MCL 500.3163(1) inapplicable. See *Farm Bureau Ins Co v Allstate Ins Co*, 233 Mich App 38, 40-41; 592 NW2d 395 (1998). The trial court's error may have occurred because this latter argument was not presented in the motions for summary disposition filed below, which notably were not provided to this Court. In any event, the matter is REMANDED for the trial court to conduct the proper analysis, which may require additional briefing, and for further proceedings consistent with this order.

The Court does not retain jurisdiction.



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

OCT 03 2012

Date


Chief Clerk