

Court of Appeals, State of Michigan

ORDER

Alexander Miller v Eric Devaney MD; Alexander Miller v University
of Michigan Regents

Docket Nos. 309624; 309637

LC Nos. 09-000810-NH; 09-000091-MH

Jane M. Beckering
Presiding Judge

Jane E. Markey

Mark T. Boonstra
Judges

The Court orders that the motion to dismiss these appeals as to the postjudgment order awarding attorney fees and costs dated March 29, 2012, and entered in the circuit court register of actions March 30, 2012, is DENIED. The Michigan Court Rules do not specifically address whether a single claim of appeal document may be used to file appeals of right in this Court as to two distinct final orders. However, the court rules "must be construed to prevent absurd results, injustice, or prejudice to the public interest." *McCracken v Detroit*, 291 Mich App 522, 525; 806 NW2d 337 (2011). It would be absurd and unjust to dismiss appellants' claim of appeal as to the March 30, 2012, postjudgment order where both the principal lower court judgment and the postjudgment order were distinctly listed as being appealed of right in the claim of appeal document and appellants have paid two \$375 entry fees corresponding to taking an appeal of right as to each of the two final orders merely because they filed one claim of appeal document rather than two such documents. Indeed, appellants using one claim of appeal document rather than two furthered the efficient use of this Court's resources. This Court's unpublished opinion in *Brookshire v Patel*, unpublished opinion per curiam of the Court of Appeals (Docket No. 291186, issued March 24, 2011), is not binding precedent. MCR 7.215(C)(1). Further, *Brookshire* is distinguishable because only one \$375 entry fee was paid in that case. The holding in *McIntosh v McIntosh*, 282 Mich App 471, 483-484; 768 NW2d 325 (2009), is also distinguishable because the claim of appeal in that case only referred to the judgment of divorce in that case, not the relevant postjudgment order awarding attorney fees, as being appealed of right and, again, only one \$375 entry fee was paid in that case. Although only one claim of appeal document was filed as to the present appeals, we nevertheless conclude that single document constituted the filing of "a separate claim of appeal" within the meaning of *McIntosh* as to both the principal judgment and the March 30, 2012, postjudgment order because it separately identified them as distinct orders appealed from.



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

MAR 08 2013

Date


Chief Clerk