

Court of Appeals, State of Michigan

ORDER

Patricia Ann Craig v Geoffrey Michael Larson; Patricia Ann Craig v
Frankenmuth Insurance Company

Docket Nos. 311467; 313333

LC No. 11-025938-NI; 12-026860-NI

Amy Ronayne Krause
Presiding Judge

Peter D. O'Connell

William C. Whitbeck
Judges

The Court orders that the motion to consolidate is GRANTED. These appeals are CONSOLIDATED to advance the efficient administration of the appellate process.

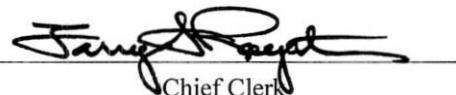
The motion to dismiss the appeal in Docket No. 311467 is DENIED because appellee has not established that appeal is either outside this Court's jurisdiction or moot. First, the subsequent grant of summary disposition to appellee in the lower court case at issue in Docket No. 313333 could not deprive this Court of jurisdiction over the claim of appeal in Docket No. 311467 because this Court was vested with jurisdiction over that claim of appeal when it was filed. See MCR 7.204(B). Further, the holding in *Wickings v Arctic Enterprises, Inc.*, 244 Mich App 125, 133-138; 624 NW2d 197 (2000), that an order dismissing a case without prejudice for lack of progress is not a final order in light of a court rule procedure allowing for a motion to reinstate such a case is inapposite because, although the trial court framed the dismissal of the claims against appellee in Docket No. 311467 as being without prejudice, this merely reflected that the substance of the claims could be brought in a new suit, not that the lower court case in Docket No. 311467 could itself be reinstated. Finally, appellee has not established that the appeal in Docket No. 311467 is moot because it is not impossible for this Court to grant relief in that appeal. See, e.g., *McCracken v Detroit*, 291 Mich App 522, 531; 806 NW2d 337 (2011). We note that arguments made in support of appellee's claim of mootness incorrectly conflate the merits of the appeal in Docket No. 311467 or the question of whether this Court *should* grant relief in that appeal with whether it *could* do so.



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

FEB 05 2013

Date


Chief Clerk