

Court of Appeals, State of Michigan

ORDER

Steffan Gaydos v City of Allen Park

Docket No. 312725

LC No. 10-013834-CK

Michael J. Riordan
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the August 21, 2012 order of the Wayne Circuit Court denying defendant's motion for summary disposition hereby is REVERSED IN PART, limited to plaintiff's civil conspiracy claim.

A civil conspiracy claim, which is not actionable by itself, requires a separate, actionable tort underlying the conspiracy. *Advocacy Org for Patients & Providers v Auto Club Ins Ass'n*, 257 Mich App 365, 384; 670 NW2d 569 (2003). A party to a contract may not allege tort claims arising out of a breach of that contract to support a conspiracy claim, see *Neibarger v Universal Cooperatives, Inc.*, 439 Mich 512, 528; 486 NW2d 612 (1992), and a concert of action cannot be the tort supporting a conspiracy claim. *Cousineau v Ford Motor Co.*, 140 Mich App 19, 37; 363 NW2d 721 (1985). In all other respects, the application is DENIED.

The case is remanded to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

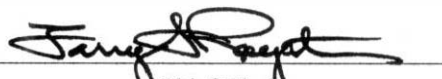
The Court retains no further jurisdiction.



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

MAY 16 2013

Date


Chief Clerk