

Court of Appeals, State of Michigan

ORDER

Estate of Bruce D Boone v Rieth-Riley Construction Company Inc

Peter D. O'Connell
Presiding Judge

Docket No. 314026

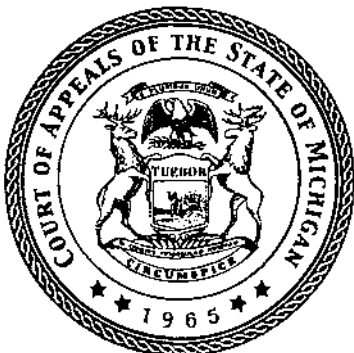
William C. Whitbeck

LC No. 05-001479-NI

Patrick M. Meter
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The motion to dismiss the claim of appeal is DENIED. Contrary to appellee's argument it is manifest that the November 30, 2012 judgment appealed from is a final judgment as defined in MCR 7.202(6)(a)(i) because it disposed of all claims in this case and adjudicated the rights and liabilities of the parties. The existence of pending motions for postjudgment relief in the trial court does not alter the status of the November 30, 2012 judgment as a final judgment appealable of right. See *Nordstrom v Auto-Owners Ins Co*, 486 Mich 962; 782 NW2d 779 (2010). *McCarthy & Associates, Inc v Washburn*, 194 Mich App 676; 488 NW2d 785 (1992), is inapposite because that case involved circumstances in which the summary disposition order appealed from left a claim against a defendant in that case undisposed, not the present circumstances involving a final judgment having been entered with pending motions for postjudgment relief now existing in the trial court. Also, because the claim of appeal and entry fee were filed in this Court before the postjudgment motions were filed in the trial court, this Court's jurisdiction over this appeal was established before those motions were even filed. MCR 7.204(B). Further, contrary to appellee's assertion, appellant did file a copy of the November 30, 2012 judgment with its claim of appeal. We also consider it manifest that the technical discrepancy between appellant indicating with its claim of appeal filing that the full transcript of trial court proceedings in this case would be prepared but then subsequently filing a motion in the trial court to prepare less than the full transcript does not warrant the harsh sanction of dismissing this appeal.



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

JAN 14 2013

Date


Chief Clerk