

Court of Appeals, State of Michigan

ORDER

Bolton Morrison Jr v Technology Investment Partners LLC

Docket No. 318505

LC No. 13-100242-CK

Deborah A. Servitto
Presiding Judge

Kathleen Jansen

Henry William Saad
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(E)(2), that the July 24, 2013, order of the Genesee Circuit Court granting partial summary disposition to defendant hereby is REVERSED. In considering a motion pursuant to MCR 2.116(C)(10), a court considers affidavits, pleadings, depositions, admissions and other evidence submitted by the parties in a light most favorable to the nonmoving party. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). The record before this Court reflects that plaintiff raised genuine issues of material fact. Where the proffered evidence establishes a genuine issue of material fact, the moving party is not entitled to judgment as a matter of law. See *id.* at 120. A genuine issue of material fact exists regarding whether the transaction involved goods and thus whether it was subject to the Sales Representatives' Commission Act, MCL 600.2961. Where the parties dispute whether the transaction involved goods, the trial court erred in making a factual finding that the transaction did not involve goods. See *Lysogorski v Bridgeport Charter Twp*, 256 Mich App 297, 299; 662 NW2d 108 (2003). The court failed to analyze the disputed facts in a light most favorable to plaintiff. 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 Jerome W. Zimmer Jr., Chief Clerk, on

APR 28 2014

Date


Chief Clerk