

Court of Appeals, State of Michigan

ORDER

Prudence M Hopkins v Auto Club Insurance Association

Docket No. 319486

LC No. 12-004466-NF

Deborah A. Servitto
Presiding Judge

Kathleen Jansen

Henry William Saad
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting leave to appeal, the Court orders that the circuit court's order denying defendant's motion to amend its affirmative defenses is REVERSED. A motion to amend should not be denied on the basis of delay alone, and plaintiff failed to establish prejudice as a result of the proposed amendment. See *Weymers v Khera*, 454 Mich 639, 659; 563 NW2d 647 (1997). Moreover, the defenses sought to be added are not affirmative defenses because they do not presume that plaintiff has established a prima facie case and assert some other reason why plaintiff should not prevail. Rather, they pertain to plaintiff's prima facie case itself and deny that she can establish a prima facie case for uninsured/underinsured motorist benefits. See *Stanke v State Farm Mut Auto Ins Co*, 200 Mich App 307, 312-313; 503 NW2d 758 (1993).

The motion for immediate consideration is GRANTED.

The motion for stay pending appeal is DENIED.

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

MAY 01 2014

Date


Chief Clerk