

# Court of Appeals, State of Michigan

## ORDER

David J Stanton & Associates Inc v Miriam Saad

Docket No. 319633

LC No. 13-000961-CK

Kurtis T. Wilder  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(E)(2), that the December 11, 2013, order of the Wayne Circuit Court granting summary disposition to plaintiff and denying defendant's motion for reconsideration hereby is VACATED. 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 materials provided to this Court reflect that defendant raised genuine issues of material fact whether the lease's description of "real property" includes the improvements. 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.* Plaintiff thus did not demonstrate in the circuit court that it was entitled to summary disposition as a matter of law. Additionally, defendant challenged whether plaintiff has the legal right to exercise the option to purchase in the absence of a specific assignment of that option. The case is REMANDED to the circuit court, which is to reconsider defendant's motion for summary disposition in light of the argument that plaintiff does not have the legal right to exercise the option to purchase.

The motion for stay is DENIED AS MOOT.

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

MAR 14 2014

Date

  
Chief Clerk