

Court of Appeals, State of Michigan

ORDER

Holliday Park Townhouses Cooperative Inc v Jeffrey Curtis

Docket No. 332291

LC No. 15-009001-AV

Kurtis T. Wilder
Presiding Judge

Kirsten Frank Kelly

Cynthia Diane Stephens
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court orders that the December 9, 2015 order entered by the Wayne Circuit Court dismissing defendant's appeal is REVERSED and the case is REMANDED for reinstatement of the appeal. The circuit court failed to comply with MCR 7.113(A). Defendant was aware from plaintiff's motion to dismiss that plaintiff asserted that defendant was not pursuing the appeal in conformity with the rules. However, the rule requires notice by the court. Notice that opposing counsel is asserting a deficiency is not the same as notice that the court has determined that a deficiency exists and will result in dismissal unless cured in 14 days. The court's failure to follow the requirements of the court rules resulted in an abuse of discretion in the dismissal of the appeal. *Donkers v Kovach*, 277 Mich App 366, 368-369; 745 NW2d 154 (2007).

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

This Court retains no further jurisdiction.

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

SEP 02 2016

Date

[Handwritten signature of Jerome W. Zimmer Jr.]
Chief Clerk