

Court of Appeals, State of Michigan

ORDER

William John Chichester v Ineke C Chichester

Docket No. 333379

LC No. 2015-030875-DO

Patrick M. Meter
Presiding Judge

Donald S. Owens

Michael F. Gadola
Judges

The Court orders that, in lieu of granting the motion for partial dismissal of appeal for lack of jurisdiction, Issues I and II in appellant's brief on appeal are STRICKEN. The motion is not properly framed as presenting a jurisdictional challenge because this Court was vested with jurisdiction over this appeal of right when the claim of appeal and entry fee were timely filed. MCR 7.204(B). But the crux of appellee's position is correct in indicating that Issues I and II in appellant's brief are outside the scope of this appeal which is limited to the portion of the order appealed from that is appealable of right per MCR 7.202(6)(a)(iv), i.e., the portion of that order denying attorney fees to appellant. MCR 7.203(A)(1). We reject appellant's argument to the effect that he is entitled to challenge any provision of the order appealed from based on MCL 600.308(1)(a). While MCL 600.308(1)(a) generally provides for "final judgments" of a circuit court to be appealable of right to this Court it includes an exception for "final judgments and orders" described in MCL 600.308(2). In turn, MCL 600.308(2)(e) provides for an order or judgment to be reviewable by this Court only upon application for leave to appeal granted by this Court as to "[a]ny other judgment . . . as determined by court rule." The broad authority granted by MCL 600.308 for the court rules to define the judgments to be appealable of right or by leave extends to making some aspects of an order that includes judgments as to multiple matters appealable of right while making other aspects of the order only appealable by leave. We also conclude that the case law cited by appellant related to an appeal from an order denying governmental immunity that is appealable of right under MCR 7.202(6)(a)(v) has no relevance to whether aspects of a final order under MCR 7.202(6)(a)(iv) other than its aspect awarding or denying attorney fees are appealable of right.

Appellant may file a delayed application for leave to appeal under MCR 7.205(G) as to the aspects of the order appealed from that are not appealable of right.



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

AUG 22 2016

Date


Chief Clerk