

Court of Appeals, State of Michigan

ORDER

Thermo Fisher Scientific Inc v John Stark

Docket No. 336033

LC No. 2015-000587-CK

Jane M. Beckering
Presiding Judge

David H. Sawyer

Douglas B. Shapiro
Judges

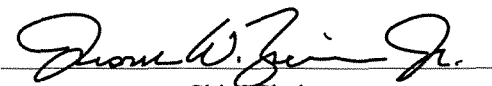
The Court orders that the motions for leave to file a supplemental brief and a reply to that brief are DENIED. Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the October 6, 2016 order of the Kalamazoo Circuit Court, which granted appellee's motion to compel production of subpoenaed business records and REMANDS this matter to the trial court for entry of an order denying the motion to compel. The trial court abused its discretion when it granted the motion to compel. *Bronson Methodist Hospital v Auto-Owners Ins Co*, 295 Mich App 431, 440; 814 NW2d 670 (2012). As a general proposition, and as a matter of state sovereignty, a state has no authority to enforce civil subpoenas against out-of-state nonparties. See *Cray v General Motors Corp*, 389 Mich 382, 388; 207 NW2d 393(1973); *Yelp, Inc v Hadeed Carpet Cleaning, Inc*, 289 Va 426, 435 (2015); *Colorado Mills, LLC v Sunopta Grains and Foods, Inc*, 269 P3d 731, 732 & 732 n 2 (Colo, 2012). In recognition of the territorial limits of subpoena power, most states, including Michigan, have adopted some form of the Uniform Interstate Deposition and Discovery Act ["UIDDA"]. MCL 600.2201 *et seq.*; *Yelp*, 289 VA at 435; *Colorado Mills*, 269 P3d at 734. The UIDDA requires the enforcement of civil subpoenas against out-of-state nonparties be left to the state in which the discovery is to take place. MCL 600.2206; West's Ann Cal C C P § 2029.600; *DeSalle v Wal-Mart Stores, Inc*, 70 NE2d 185, 190 n 2 (Ohio, 2016); *Yelp*, 289 Va at 437; *Colorado Mills*, 269 P3d at 735. In this case, California is the discovery state. Thus, the Superior Court of California for the County of San Mateo has the sole authority to enforce the subpoena.



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

MAY - 8 2017

Date


Chief Clerk