

Court of Appeals, State of Michigan

ORDER

Farrow Group Inc v Detroit Land Bank Authority

Docket No. 339132

LC No. 17-002792-CK

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

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

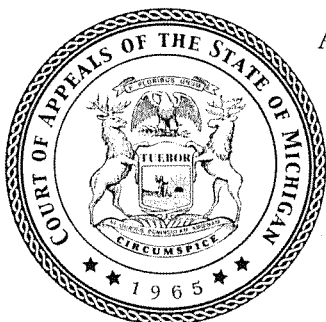
Pursuant to MCR 7.205(E)(2), the trial court's June 2, 2017 order is REVERSED. When reviewing a motion under MCR 2.116(C)(8) a court should consider only the pleadings, not documentary evidence. *Rorke v Savoy Energy, LP*, 260 Mich App 251, 253; 677 NW2d 45 (2003). Documentary evidence includes depositions. *Dalley v Dykema Gossett*, 287 Mich App 296, 305; 788 NW2d 679 (2010). Further, if plaintiff is correct that depositions are necessary to resolve defendant's motion, then defendant cannot prevail since summary disposition cannot be granted under subrule (C)(8) if any factual development could possibly justify a right to recovery. *Id.* Accordingly, conducting the depositions before defendant's (C)(8) motion is resolved would be a waste of time and money for both parties, especially considering that plaintiff may still conduct these depositions if defendant's motion is denied. The trial court erred in ruling otherwise. *In re Waters Drain Drainage Dist*, 296 Mich App 214, 220; 818 NW2d 478 (2012) ("A court by definition abuses its discretion when it makes an error of law.").

The motion for stay is DENIED.

The motion to waive the requirements of MCR 7.209 is DENIED.

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

This Court retains no further jurisdiction.



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

JUL 24 2017

Date


Chief Clerk