

Court of Appeals, State of Michigan

ORDER

Pioneer State Mutual Insurance Co v Stephen A Michalek

Docket No. **339991**

LC No. **14-000245-CK**

Michael J. Talbot, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED for lack of jurisdiction. The August 15, 2017 order from which the claim of appeal was filed is not a final order under any of the definitions set forth in MCR 7.202(6)(a). MCR 7.203(A)(1) allows an appeal of right from a final judgment or order as defined in MCR 7.202(6). To the extent appellants are attempting to appeal the March 15, 2017 trial court opinion, that opinion does not appear to be a final order, MCR 7.202(6)(a); and importantly, the claim of appeal is untimely from that opinion even if the opinion was appealable by right. A claim of appeal must be filed within 21 days after entry of the judgment or order appealed from or within 21 days after entry of an order deciding a motion for reconsideration “*if the motion was filed within the initial 21-day appeal period.*” MCR 7.204(A)(1)(a) and (b) (emphasis added). The motion for reconsideration of the March 15, 2017 opinion was filed outside of the initial 21-day period. Finally, the July 17, 2017 judgment appears to be a final order under MCR 7.202(6)(a)(i), notwithstanding language in the judgment indicating that it is not a final order. See, e.g., *Faircloth v Family Independence Agency*, 232 Mich App 391, 400; 591 NW2d 341 (1998). If appellants are attempting to appeal that judgment, the September 5, 2017 claim of appeal is untimely; it was not taken within 21 days after entry of the judgment or 21 days after entry of an order deciding a timely filed motion for relief from the July 17, 2017 judgment. MCR 7.204(A)(1)(a) and (b). At this time, appellants may seek to appeal the August 15, 2017 order or any other order or judgment by filing a delayed application for leave to appeal under MCR 7.205(G).



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

SEP 26 2017

Date


Chief Clerk