

Court of Appeals, State of Michigan

ORDER

National Collegiate Student Loan Trust 2007-3 v Jasmine Alexander

Kirsten Frank Kelly
Presiding Judge

Docket No. 343810

Christopher M. Murray

LC No. 17-001334-CK

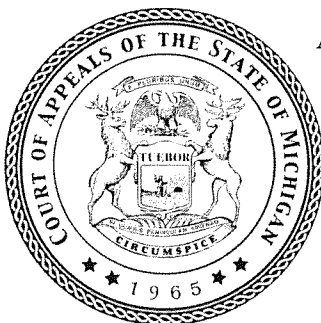
Cynthia Diane Stephens
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's March 2, 2018 order granting defendants' motion to compel discovery, and the April 23, 2018 order denying relief from the March 2, 2018 order, are VACATED, and the matter is REMANDED for further proceedings. The trial court had no authority to subpoena out-of-state, nonparty witnesses to appear for depositions in Georgia. *Ann Arbor Bank v Weber*, 338 Mich 341, 345; 61 NW2d 84 (1953). See also *Hall v Hall*, 128 Mich App 757, 763; 341 NW2d 206 (1983), citing *People v Nieto*, 33 Mich App 535, 538 n 7; 190 NW2d 579 (1971) ("Plaintiff's wife, a nonresident, was beyond the subpoena power of the court.") Rather, defendants must obtain the assistance of the Georgia courts to subpoena Georgia residents for depositions. MCR 2.305(D); Ga Code Ann 12-13-112. See also MCL 600.2201 *et seq.* As the trial court's orders were premised on a belief that the witnesses could be compelled to testify at depositions through Michigan subpoenas served on a nonparty corporation in Delaware, those orders must be vacated.

The motion to stay the trial court proceedings pending resolution of this appeal is DENIED as moot.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

[Handwritten signature]



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

OCT 11 2018

Date

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