

# Court of Appeals, State of Michigan

## ORDER

Shirley Andrews v Amy Lucas

Docket No. 345764

LC No. 17-006135-NI

Michael J. Riordan  
Presiding Judge

Christopher M. Murray

Thomas C. Cameron  
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's August 9, 2018 order is VACATED to the extent it granted summary disposition in favor of defendant Everest National Insurance Company and dismissed the complaint against this defendant, and the matter is REMANDED for further proceedings. Before determining whether the insurance policy may be rescinded as against plaintiff, an innocent third party, the trial court must balance the equities to determine whether rescission is appropriate. See *Bazzi v Sentinel Ins Co*, 502 Mich 390; 919 NW2d 20 (2018). In doing so, the trial court must fully consider the relevant circumstances of this particular case. See *id.* at 410-411. See, also, *Farm Bureau Gen Ins Co v Ace American Ins Co*, \_\_\_ Mich \_\_\_; 919 NW2d 394, 395 (2018) (MARKMAN, J., concurring). After reviewing the record, it does not appear that the trial court balanced the equities or fully considered the facts of this case before concluding that rescission would be allowed as against plaintiff. On remand, the trial court is directed to determine whether rescission is appropriate in accordance with *Bazzi*, 502 Mich at 408-412.

The Court orders that the motion for peremptory reversal pursuant to MCR 7.211(C)(4) is DENIED AS MOOT.

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



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

FEB 21 2019

Date

  
Chief Clerk