

Court of Appeals, State of Michigan

ORDER

Johnous Gilbert Jr v Progressive Michigan Insurance Company

Docket No. 345958

LC No. 17-018094-NF

Cynthia Diane Stephens
Presiding Judge

Kirsten Frank Kelly

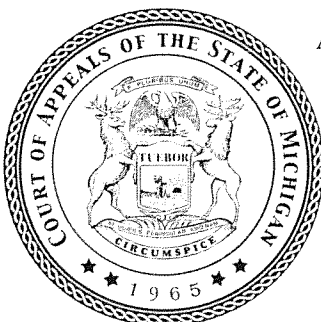
Anica Letica
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(E)(2), that the August 23, 2018 order of the Wayne Circuit Court is VACATED IN PART to the extent that the court identified defendant Progressive as higher in priority than defendant Michigan Automobile Insurance Placement Facility. The parties dispute whether plaintiff was covered by Progressive Policy #17626925. A trial court should not make findings of fact on summary disposition, see generally *Pioneer State Mut Ins Co v Dells*, 301 Mich App 368, 377; 836 NW2d 257 (2013), and indeed, the court did not determine whether plaintiff actually is covered by the policy. Where the question of coverage remains outstanding, the court erred in determining that Progressive was the insurer highest in priority.

The motion for stay is DENIED.

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

The Court retains no further jurisdiction.



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

MAR 28 2019

Date


Chief Clerk