

Court of Appeals, State of Michigan

ORDER

Advanced Surgery Center LLC v Farm Bureau General Insurance Co

Docket No. 346081

LC No. 2017-161796-NF

Karen M. Fort Hood
Presiding Judge

Deborah A. Servitto

Mark T. Boonstra
Judges

On the Court's own motion, the Court orders that the above case is hereby HELD IN ABEYANCE until the Michigan Supreme Court decides the pending appeal in *Turner v Farmers Ins Exchange*, 327 Mich App 481; 934 NW2d 81 (2019).

Boonstra, J. (concurring). Given that our Supreme Court has granted leave to appeal this Court's decision in *Turner v Farmers Ins Exchange*, 327 Mich App 481; 934 NW2d 81 (2019), see *Turner v Farmers Ins Exchange*, unpublished order of the Supreme Court, entered November 27, 2019 (Docket No. 159660), I concur in holding this matter in abeyance pending the Supreme Court's decision in that case. In doing so, however, I am compelled to add my voice to the chorus of those who believe that *Turner* was wrongly decided. See, e.g., *Turner*, 327 Mich App at 95-98 (Redford, J., dissenting) ("Our Supreme Court made clear in *Parks [v Detroit Auto Inter-Ins Exch]*, 426 Mich 191, 393 NW2d 833 (1986)], that if the vehicle involved in the accident does not need to be registered in Michigan, the priority provisions set forth in MCL 500.3114 do not apply.") (footnote omitted). See also, *Heichel v Geico Indemnity Co*, unpublished per curiam opinion of the Court of Appeals, issued March 1, 2016 (Docket Nos. 323818 and 324045), in which a unanimous panel of this Court (Judges Gleicher, Jansen, and Shapiro) held that "the Supreme Court's opinion in *Parks* . . . paves the way to our decision in this case . . . and leads inexorably to our conclusion that because EAN is not subject to the security requirements of the no-fault act, EAN cannot be held liable for Heichel's PIP benefits." I fully agree. Put simply, where the security provisions of the no-fault act do not apply, there is nothing to compare (in terms of priority) and the priority provisions of the no-fault act accordingly also do not apply. Were it not for the fact that our Supreme Court has already granted leave to appeal in *Turner*, I would call for a conflict panel of this Court to assess the continued validity of *Turner*.



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

DEC 11 2019

Date


Chief Clerk