

# Court of Appeals, State of Michigan

## ORDER

Kevin L Estill v Nationwide Mutual Insurance Company

Docket No. 348676

LC No. 2018-004780-NF

Mark J. Cavanagh  
Presiding Judge

Colleen A. O'Brien

Jonathan Tukul  
Judges

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In lieu of granting leave to appeal, pursuant to MCR 7.205(E)(2), the Court orders that the Macomb Circuit Court's April 8, 2019 order denying defendant's motion for summary disposition is REVERSED. It is undisputed that the named plaintiff died before the complaint was filed and that the complaint was not brought in the name of plaintiff's estate. Plaintiff lacked legal capacity to sue in his own name before the action was filed, so defendant is entitled to summary disposition under MCR 2.116(C)(5). *Flint Cold Storage v Dept of Treasury*, 285 Mich App 483, 501; 776 NW2d 387 (2009).

We do not retain jurisdiction.



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

AUG 14 2019

Date

  
Chief Clerk