

Court of Appeals, State of Michigan

ORDER

Meghan Marie Kuebler v Paul Andrew Kuebler

Docket No. 351805

LC No. 15-002753-DM

Douglas B. Shapiro
Presiding Judge

Jane E. Markey

Jane M. Beckering
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court orders that the delayed application for leave to appeal as to Issue I is DENIED for lack of merit in the grounds presented.

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal as to Issue II, the Court VACATES the portion of the September 6, 2019 order that denied plaintiff's request for an evidentiary hearing and REMANDS for additional proceedings on plaintiff's motion to modify parenting time. On remand, because the facts alleged by plaintiff to constitute proper cause or change of circumstances are not undisputed, the trial court shall hold an evidentiary hearing on the threshold issue whether proper cause or change of circumstances exists. Should the trial court, after determining which standard for proper cause and change of circumstances applies to plaintiff's request for unsupervised parenting time, *Kaeb v Kaeb*, 309 Mich App 556, 566-572; 873 NW2d 319 (2015), conclude that plaintiff has met that standard, it shall consider the relevant best interest factors in determining whether to modify the status quo. The evidentiary hearing shall be held within 42 days of the date of this order. The Court denies plaintiff's request that the case be assigned to a different trial judge on remand. "Repeated rulings against a party, no matter how erroneous, or vigorously or consistently expressed, are not disqualifying." *Bayati v Bayati*, 264 Mich App 595, 603; 691 NW2d 812 (2004). Plaintiff has filed a motion to disqualify the trial judge and whether the trial judge's repeated rulings against plaintiff indicate a bias is best decided, in the first instance, by the lower court. This order is to be given 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

DEC 30 2019

Date

Chief Clerk