

# Court of Appeals, State of Michigan

## ORDER

Dallias E Wilcoxon v James Martin III

Docket No. 350907

LC No. 18-008300-AV

Cynthia Diane Stephens  
Presiding Judge

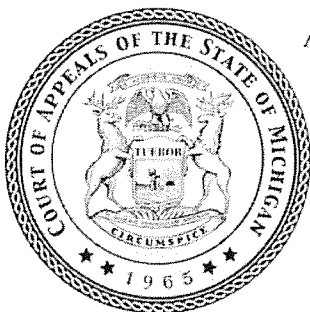
Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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Pursuant to MCR 7.205(E)(2), and in lieu of granting leave to appeal, the Court orders that the Wayne Circuit Court's December 19, 2018 order is VACATED only to the extent it affirms the 36<sup>th</sup> District Court's July 3, 2018 order, granting *with prejudice* defendant's motion for summary disposition under MCR 2.116(C)(4) on the grounds that the district court lacked subject-matter jurisdiction of plaintiff's claim to quiet title. A dismissal of an action for lack of subject-matter jurisdiction is not an adjudication on the merits; it will not bar another action for the same cause. *In re Quinney's Estate*, 287 Mich 329, 338-339; 283 NW 599 (1939). The district court erred in granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(4) *with prejudice*. This matter is REMANDED to the 36<sup>th</sup> District Court for entry of an order dismissing *without prejudice* plaintiff's claim to quiet title for lack of subject-matter jurisdiction. Plaintiff's delayed application for leave to appeal is otherwise DENIED for lack of merit in the grounds presented.

We do not retain jurisdiction.



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

JAN 10 2020

Date

  
Chief Clerk