

STATE OF MICHIGAN
COURT OF APPEALS

MICHIGAN EDUCATIONAL EMPLOYEES
MUTUAL INSURANCE COMPANY,

UNPUBLISHED

Plaintiff-Appellee/
Cross-Appellant,

v

No. 186256
LC No. 93-38659 NZ

RICHARD MORRIS, Conservator of the
Estate of CELIA ANNETTE WOOTEN, a
legally incapacitated person,

Defendant-Appellant/
Cross-Appellee.

Before: Michael J. Kelly, P.J., and O'Connell and K.W. Schmidt,* JJ.

O'CONNELL, J. (concurring).

I concur in result only. I agree with the majority opinion that plaintiff is entitled to full reimbursement. However, the application of *Profit v Citizens Ins Co*, 444 Mich 281; 506 NW2d 514 (1993) is retroactive to the payments made in this case, not prospective as the majority infers. Furthermore, both parties justifiably relied on this Court's decision in *Profit v Citizens Ins Co*, 187 Mich App 55 (1991), rev'd 444 Mich 281; 506 NW2d 514 (1993). Neither party could have predicted that the Supreme Court would in fact reverse the Court of Appeals' decision.

/s/ Peter D. O'Connell

* Circuit judge, sitting on the Court of Appeals by assignment.