

Order

Michigan Supreme Court
Lansing, Michigan

November 7, 2018

Stephen J. Markman,
Chief Justice

154563 & (68)(70)(72)(73)

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

MARY ANN LAMKIN and STEVE LAMKIN,
Plaintiffs-Appellants/
Cross-Appellees,

v

SC: 154563
COA: 326986
Livingston CC: 12-026600-NZ

EUGENE HARTMEIER, CYNTHIA
HARTMEIER, KEVIN HARTMEIER,
DENNIS McCOMB, GLORIA McCOMB,
DANIEL ENGRAM, DANIELLE ENGRAM,
JAMES BEAUDOIN, CECILE
LAUDENSLAGER, ANGELA CHRISTIE,
KIMBERLY KRASKA, JOAN BEAUDOIN,
and DAMON HARTMEIER,
Defendants-Appellees/
Cross-Appellants,

and

AARON KIRBY, DENISE ENGRAM,
DEANN ENGRAM, DEREK ENGRAM,
and CATHERINE BARRETT,
Defendants-Appellees,

and

RONALD THYBAULT and the Estate of
MARY WECKESER,
Defendants.

By order of May 2, 2017, the application for leave to appeal the September 1, 2016 judgment of the Court of Appeals and the applications for leave to appeal as cross-appellants were held in abeyance pending the decision in *Marlette Auto Wash, LLC v Van Dyke SC Properties, LLC* (Docket No. 153979). On order of the Court, the case having been decided on March 19, 2018, 501 Mich 192 (2018), the applications are again

considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE in part the judgment of the Court of Appeals. We do not disturb the remand to Livingston Circuit Court on the issue of nuisance. We REMAND this case to the Court of Appeals for reconsideration as to whether each defendant established a prescriptive easement in light of *Marlette Auto Wash, LLC v Van Dyke SC Properties, LLC*, 501 Mich 192 (2018), and for reconsideration of the scope of each easement based on the manner of use by which the easement was acquired and the manner of the previous enjoyment, see *Heydon v MediaOne*, 275 Mich App 267, 271 (2007). In all other respects, the applications are DENIED.

We do not retain jurisdiction.



d1031

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 7, 2018

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk