

Order

Michigan Supreme Court
Lansing, Michigan

July 2, 2015

Robert P. Young, Jr.,
Chief Justice

150957

Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein,
Justices

BANK OF NEW YORK MELLON, f/k/a BANK
OF NEW YORK, as Trustee for the Certificate
Holders of CWABS, INC., ASSET-BACKED
CERTIFICATES SERIES 2003-3,
Plaintiff-Appellant,

v

SC: 150957
COA: 316521
Wayne CC: 11-008424-CH

JAAFAR K. JAAFAR and BADIA JAAFAR,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the December 23, 2014 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals.

An offer “is the manifestation of willingness to enter into a bargain, so made as to justify another person in understanding that his assent to that bargain is invited and will conclude it.” See *Eerdmans v Maki*, 226 Mich App 360, 364 (1997). Here, and contrary to the judgment of the Court of Appeals, the January 20, 2012 e-mail from plaintiff’s counsel to defendants’ counsel did not constitute an offer to settle this case. Instead, this e-mail inquired whether defendants would present an offer at some point in the future, which they did, through a subsequent e-mail by their counsel. Defendants’ counsel confirmed that this subsequent e-mail was an offer by later inquiring whether plaintiff had accepted *their* offer. For these reasons, and for the reasons stated by the Court of Appeals’ dissenting opinion, no enforceable settlement agreement existed to bind the parties in this case. We REMAND this case to the Wayne Circuit Court for further proceedings not inconsistent with this order.

We do not retain jurisdiction.



s0630

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.

July 2, 2015

Clerk