

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TOWNSHIP OF BROOKS,

Plaintiff/Appellee/Cross-Appellant,

v

JAMES R. HADLEY, JOHN J. JULIANUS  
TRUST, ROBERT JULIANUS, MARY STEIN  
RESTATED TRUST, MARY M. STEIN,  
LESTER E. HALLBERG, CLAUDIA  
HALLBERG, and ROY W. FORBES,

Defendants/Appellants/Cross-  
Appellees,

and

DAVID L. SHARP, ROGER L. STROVEN,  
ROGER L. DEJONG, LUANNE DEJONG, JACK  
JEFFERS, GEORGE S. HOFACKER, KAY M.  
HOFACKER, MARIANNE GELUSO, SHARON  
FLEENOR, JULIE WILSON, IRENE M.  
GODLEWSKI TRUST, DANIEL  
ROTHENTHALER, RICHARD LEONARD,  
HARRIET LEONARD, THEODORE SENFT,  
AMALIA SENFT, TED ROBINSON, SUSAN  
ROBINSON, MARILYN ROBINSON, REX V.  
ROBINSON, MARILYN M. ROBINSON,  
THOMAS J. GOULD, KATHLEEN M. GOULD,  
FRIEDA D. SCHNEIDER TRUST, THOMAS J.  
SCHNEIDER, JAMES RYAN, HELEN G.  
COOPER, THOMAS F. COOPER, WILLIAM  
HAISMA, DONA L. BLACK, ROBERT  
CROSCHERE, CHARLOTTE CROSCHERE,  
THOMAS A. POSTMA, AMY M. POSTMA,  
JOAN WALLACE, and FEDERAL NATIONAL  
MORTGAGE ASSOCIATION,

Defendants.

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UNPUBLISHED  
September 2, 2014

No. 299409  
Newaygo Circuit Court  
LC No. 07-019180-CE

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EVERETT TOWNSHIP,

Plaintiff/Counter-  
Defendant/Appellee/Cross-  
Appellant,

V

No. 299420  
Newaygo Circuit Court  
LC No. 07-019178-CE

STEVEN SKOWRONSKI, SCOTT BURN,  
Personal Representative for the ESTATE OF  
MICHAEL MILLER, FRED S. WISNIEWSKI,  
EDWIN UNGREY, RICHARD J. SIMONS,  
SANDRA L. SIMONS, WALTER W.  
CARHART, COLLEEN B. CARHART, CAROL  
WEATHERHEAD, ROBERT & HOLLY  
PIETILA TRUST, LAURA ANN PACIFICI,  
DOROTHY L. LAKE, ROBERT F. LAKE,  
RANDALL D. LOWING, NANCY A. LOWING,  
JEFFREY A. BALL, and GWEN L. BALL,

Defendants,

and

DANIEL HANKS, SR., DONNA JACHIM,  
LINDA BARLE, JOHN HANKS, JR., and  
CAROL HANKS,

Defendants/Appellants/Cross-  
Appellees,

and

KENNETH THEDE and CHERYL THEDE,

Defendants/Appellees,

and

RAY W. ROTHENTHALER,

Defendant/Counter-Plaintiff.

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Before: HOEKSTRA, P.J., and MARKEY and RONAYNE KRAUSE, JJ.

RONAYNE KRAUSE, J. (*concurring in part and dissenting in part*)

I concur with the majority in all respects other than the majority's reversal of the trial court's refusal to impose certain sanctions on three specific defendants. In particular, civil penalties pursuant to Article III, § 306 of the respective ordinances are imposed nine months after being *required* to connect to the sewer system. The trial court essentially held that three of the defendants, Julianus, Forbes, and Hadley, were not "required" to connect to the sewer system until certain issues with the system were resolved. As the majority notes, equity generally cannot be invoked in avoidance of statutory requirements. *Eastbrook Homes Inc v Treasury Dep't*, 296 Mich App 336, 347; 820 NW2d 242 (2012). Defendants admittedly did not offer arguments based on the exceptions to that rule, namely fraud, accident, or mistake. See *id.* However, rightly or wrongly, plaintiffs have not cross-appealed the trial court's holdings regarding Julianus, Forbes, and Hadley not being required to connect until the issues were resolved. Indeed, the trial court's orders to the effect that they were not required to connect have not been successfully challenged.

Whether those orders should or should not have entered, they did enter. Consequently, properly or improperly, the nine-month period in § 306 did not commence until that resolution. I believe that the majority improperly disregards the actual facts of this case. The trial court may or may not have made a mistake, but it did not exceed its subject-matter jurisdiction, so the orders that the named defendants were not required to hook up are simply part of objective reality. I note further that it is deeply unfair for a party to be punished for relying on the validity of an order of a court. The majority not only undertakes to rewrite established and unchallenged history, but actively undermines the authority of courts in general, which absolutely depend on their orders being considered respectable and trustworthy. I would direct that on remand, the trial court must impose the penalty under § 306 to all defendants but must calculate the amount for Julianus, Forbes, and Hadley based on the date when the system was ready for them to connect thereto.

/s/ Amy Ronayne Krause