

# Order

Michigan Supreme Court  
Lansing, Michigan

September 24, 2008

Clifford W. Taylor,  
Chief Justice

136542-43

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

RICK PETERSEN,  
Plaintiff-Appellee,

v

SC: 136542-43  
COA: 273293-94  
WCAC: 03-000036, 03-000260

MAGNA CORPORATION and MIDWEST  
EMPLOYERS CASUALTY COMPANY,  
Defendants-Appellants,

and

BCN TRANSPORTATION SERVICES, INC.;  
KOLEASECO, INC. and CITIZENS  
INSURANCE COMPANY OF AMERICA;  
KOLEASECO, INC. and ACCIDENT FUND  
OF AMERICA; BCN TRANSPORTATION  
SERVICES and TIG INSURANCE COMPANY;  
MAGNA CORPORATION and TIG INSURANCE  
COMPANY; and SERTA RESTOKRAFT  
MATTRESS COMPANY, INC. and  
HARLEYSVILLE LAKE STATES INSURANCE  
COMPANY,  
Defendants-Appellees.

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On order of the Court, the application for leave to appeal the April 17, 2008 judgment of the Court of Appeals is considered, and it is GRANTED, limited to the issue of the proration of attorney fees in MCL 418.315(1). The parties shall include among the questions to be briefed: (1) what is the meaning of the term “prorate” in the last sentence of § 315(1), and whether that term represents an exception to the American Rule regarding attorney fees (see *Haliw v City of Sterling Heights*, 471 Mich 700, 707 (2005)); (2) whether the magistrate’s authority to prorate attorney fees is limited to the parties to the worker’s compensation action; and if so, does the penultimate sentence of MCL 418.315(1) limit which parties are subject to proration; and (3) what is the status, if any, of health care providers and medical insurers in prorating of attorney fees.

The Clerk of the Court is directed to place this case on the January 2009 session calendar for argument and submission. Appellants' brief and appendix must be filed no later than November 10, 2008, and appellee's brief and appendix, if appellee chooses to submit an appendix, must be filed no later than December 12, 2008.

The Worker's Compensation Section of the State Bar of Michigan, the Michigan Self-Insurers' Association, and Blue Cross and Blue Shield of Michigan are invited to file briefs amicus curiae, to be filed no later than December 26, 2008. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae, with such briefs to be filed no later than December 26, 2008.



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I, Corbin R. Davis, 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.

September 24, 2008

*Corbin R. Davis*

Clerk