

Court of Appeals, State of Michigan

ORDER

Detroit Medical Center v AAA of Michigan

Docket No. 278802

LC No. 06-618764-NF

Kurtis T. Wilder
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the May 31, 2007, order of the Wayne Circuit Court granting partial summary disposition to plaintiff hereby is REVERSED. The record evidence before this Court demonstrates that genuine issues of material fact exist as to whether Huston Brown was an owner of the Buick Riviera and thus was required to maintain a policy of insurance, MCL 500.3113(b); *Ardt v Titan Ins Co*, 233 Mich App 685, 688; 593 NW2d 215 (1999). Jones testified that Brown had purchased the Riviera from Brown's brother. Also, Brown's brother had purchased another vehicle to replace the Riviera; Brown's mother already owned another vehicle and Brown was in the Riviera on the night of the accident. Thus, genuine issues of material fact exist for trial. Likewise, the parties dispute facts with regard to whether Brown's brother made material misrepresentations to defendant when applying for insurance and whether Brown met the definition of an innocent third party so as to avoid rescission of the policy. See *Hammoud v Metro Prop & Cas Ins Co*, 222 Mich App 485, 488-489; 563 NW2d 716 (1997). In light of those disputed facts, plaintiff has not shown that it is entitled to summary disposition as a matter of law. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 14 2007

Date

Sandra Schultz Mengel
Chief Clerk