

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Lyle A Smith v Joan Ellerbush Morgan**
Docket No. **280124**
L.C. No. **07-702771-NM**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal is DISMISSED for lack of jurisdiction. The August 1, 2007 order denying appellant's motion to set aside the earlier May 21, 2007 order granting summary disposition to appellee is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). Even if the claim of appeal were treated as being filed from the May 21, 2007 order, which was the final order in this case under MCR 7.202(6)(a)(i), the claim of appeal would be untimely because it was not filed within 21 days of that order. MCR 7.204(A)(1)(a). The time for filing a claim of appeal from the May 21, 2007 order was not extended by MCR 7.204(A)(1)(b) because the motion to set aside the order granting summary disposition was not filed within 21 days of the May 21, 2007 order. At this time appellant may seek to appeal from either the May 21, 2007 order or the August 1, 2007 order only by filing a delayed application for leave to appeal under MCR 7.205(F).



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

OCT 18 2007

Date

Sandra Schultz Mengel

Chief Clerk