

# Court of Appeals, State of Michigan

## ORDER

CJ's Excavating Inc v City of Frankfort

Docket No. 309849

LC No. 08-008337-CK

Donald S. Owens  
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause  
Judges

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The Court orders that the motion for reconsideration is DENIED. Appellant presents no significant new ground for distinguishing this case from *CAM Constr v Lake Edgewood Condo Ass'n*, 465 Mich 549; 640 NW2d 256 (2002). Rather, regardless of the subjective intent of the trial court in submitting this case to a second case evaluation, as a matter of law under MCR 2.403(M)(1) as applied in *CAM Constr* the mutual acceptance of the resulting case evaluation award by appellant and appellee disposed of all claims between them. *Id.*, 555. It is immaterial whether the trial court erred by submitting this case for a second case evaluation. Clearly, legal error could occur in the case evaluation process as with any trial court proceedings, but MCR 2.403(M)(1) makes no exception for claims of error in the case evaluation process to the rule that entry of judgment pursuant to mutual acceptance of a case evaluation award disposes of all claims between the parties. We note that there is no reasonable basis to conclude that the common law doctrine of *res judicata* was an implicit basis of the holding in *CAM Constr*. Rather, that opinion was based on the plain language of MCR 2.403(M)(1). Further, it would not be reasonable for us to use the powers of amendment to correct clerical mistakes or errors arising from oversight or omission under MCR 2.612(A) and MCR 7.216(A)(1) to negate the substantive decisions of both appellant and appellee to accept the relevant case evaluation award. Similarly, the broad grant of power in MCR 7.216(A)(7) to allow this Court to craft effective remedies cannot appropriately be applied to defy the rule of law articulated in *CAM Constr*.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

NOV 01 2012

Date

  
Chief Clerk