

**Court of Appeals, State of Michigan**

**ORDER**

Cameron Mews v Dairyland Insurance Company

Kurtis T. Wilder  
Presiding Judge

Docket No. 314169

Michael J. Talbot

LC No. 11-011910-NF

Cynthia Diane Stephens  
Judges

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The Court orders that the motion for immediate consideration is **GRANTED**.

Pursuant to MCR 7.205(D), in lieu of granting leave to appeal, the Court further orders that the August 31, 2012, order of the Wayne Circuit Court granting plaintiff's motion for partial summary disposition on the issue of motor vehicle involvement is **REVERSED**. Plaintiff testified that he encountered a motor vehicle and swerved to avoid hitting it. Other evidence suggested that there were no other moving vehicles in the vicinity and that plaintiff did not make any evasive moves prior to his crash. Thus, there exists a question of fact regarding whether plaintiff, a motorcycle operator, was injured in an accident involving a motor vehicle. Courts may not resolve factual disputes or determine credibility in ruling on a summary disposition motion. *Burkhardt v Bailey*, 260 Mich App 636, 646-647; 680 NW2d 453 (2004).

The matter is **REMANDED** for further proceedings not inconsistent with this order.

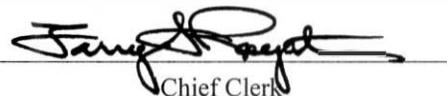
Pursuant to MCR 7.215(F)(2), this order shall take immediate effect. The Court retains no further jurisdiction.



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

**FEB 13 2013**

\_\_\_\_\_  
Date

  
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Chief Clerk