

Court of Appeals, State of Michigan

ORDER

Mary Lou Bonacci v Ferris State University

Stephen L. Borrello
Presiding Judge

Docket No. 318136

William C. Whitbeck

LC No. 11-020376-CD

Amy Ronayne Krause
Judges

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

The motion to dismiss this appeal for lack of jurisdiction is DENIED because the August 26, 2013 order appealed from is a final order under MCR 7.202(6)(a)(iv) as a postjudgment order awarding attorney fees and costs. Contrary to appellees' position nothing in MCR 7.202(6)(a)(iv) provides that a postjudgment order awarding attorney fees and costs is not a final order merely because it contemplates entry of a subsequent postjudgment order awarding further attorney fees and costs. The holdings in *In re Estate of Hemminger*, 463 Mich 941; 620 NW2d 852 (2000), and *John J Fannon Co v Fannon Products, LLC*, 269 Mich App 162, 164-165; 712 NW2d 731 (2005), that orders merely determining an entitlement to attorney fees and costs without determining the amount to be awarded were not final orders are inapposite because it is evident that those orders included no award of attorney fees and costs while the August 26, 2013 order in this case awards express amounts for attorney fees and costs. We note that the discussion of what constitutes a "final judgment" or "final order" in *Zimmerman v Zimmerman*, 177 Mich App 8; 440 NW2d 906 (1989), is largely inapposite because it predates the adoption of definitions of those terms in MCR 7.202(6). Thus, nothing in *Zimmerman* overrides the plain language of MCR 7.202(6)(a)(iv) under which the August 26, 2013 order is a final order.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT 23 2013

Date

Chief Clerk