

Court of Appeals, State of Michigan

ORDER

Estate of Bimla Nayyar v Oakwood Healthcare Inc

Docket No. 327506

LC No. 13-009819-NH

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Karen M. Fort Hood
Judges

The Court orders that the motions for immediate consideration are GRANTED.

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate review. However, we note that granting leave to appeal is not necessary at this time because the trial court has yet to enter a final judgment. We are of the opinion that the May 5, 2015 order likely constituted an impermissible collateral attack on the Wayne Circuit Court's February 19, 2013 order entered in WCCC No. 12-013694-NO. Because that unappealed order dismissed with prejudice plaintiff's allegation of negligence against this defendant, and because no appeal was filed, the dismissal was on the merits and final. *Al-Shimmari v Detroit Med Ctr*, 477 Mich 280, 295; 731 NW2d 29 (2007). To rule contrary to the February 19, 2013 order's dismissal with prejudice of plaintiff's negligence claim would likely be a collateral attack of that order and a violation of the collateral estoppel doctrine.

The motion to file a supplemental brief is GRANTED.

The motion to allow a reply to the answer to the motion for sanctions is GRANTED.

The motion for sanctions is DENIED.

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



JUN 04 2015

Date

Chief Clerk