

# Order

Michigan Supreme Court  
Lansing, Michigan

July 25, 2008

Clifford W. Taylor,  
Chief Justice

135028

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

HATTIE MOORE and JAMES MOORE,  
Plaintiffs-Appellees,

v

SC: 135028  
COA: 267191  
Genesee CC: 01-071881-NF  
02-073203-NF

SECURA INSURANCE,  
Defendant-Appellant.

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By order of January 30, 2008, the application for leave to appeal the July 3, 2007 judgment of the Court of Appeals was held in abeyance pending the decision in *Ross v Auto Club Group* (Docket No. 130917). On order of the Court, the case having been decided on May 7, 2008, 481 Mich 1 (2008), the application is again considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). The parties shall submit supplemental briefs within 42 days of the date of this order addressing: (1) whether the benefits at issue were “overdue,” MCL 500.3148(1), 500.3142(2); (2) whether defendant “unreasonably refused to pay the claim or unreasonably delayed in making proper payment,” MCL 500.3148(1); (3) assuming defendant unreasonably refused to pay, but also assuming that only a portion of the benefits sought and awarded were “overdue,” whether MCL 500.3148(1) permits recovery of attorney fees for all benefits sought and recovered; and (4) whether the Court of Appeals erred in suggesting that “it is . . . possible for an insurer to unreasonably refuse to pay benefits even if the insurer is later deemed not liable for them.”

CAVANAGH, J., not participating due to a familial relationship with counsel of record.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 25, 2008

Clerk