

Order

Michigan Supreme Court
Lansing, Michigan

January 13, 2006

Clifford W. Taylor,
Chief Justice

129241

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

CHARLENE TATE,
Plaintiff-Appellant,

v

SC: 129241
COA: 261950
Wayne CC: 04-404500-NO

CITY OF DEARBORN,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the May 17, 2005 order of the Court of Appeals is considered, and it is GRANTED. The parties are directed to include among the issues to be briefed: (1) whether application of the rule of *Pierson Sand & Gravel, Inc v Keeler Brass Co*, 460 Mich 372 (1999), to this case tends to encourage gamesmanship by giving plaintiffs an incentive to fail to plead a theory in federal court, with the hope of later litigating that theory in state court, because it was arguably possible, or even probable, that the federal court would have declined to exercise its jurisdiction; (2) whether there are distinguishing factors between this case and *Pierson, supra*; (3) whether, if a plaintiff wants to preserve state law claims based on the same facts as an action it has brought in federal court, it should be obligated to plead them, or at least attempt to plead them, in the federal court; and (4) whether the interests of federalism or state sovereignty are implicated by this case.



s0110

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.

January 13, 2006

Corbin R. Davis

Clerk