

Order

Michigan Supreme Court
Lansing, Michigan

February 3, 2006

127537 & (25)

MARY A. DONOHO,
Plaintiff-Appellee,

v

WAL-MART STORES, INC., and
INSURANCE COMPANY OF THE STATE OF
PENNSYLVANIA,
Defendant-Appellant.

Clifford W. Taylor,
Chief Justice

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

SC: 127537
COA: 256525
WCAC: 03-000235

On December 14, 2005 the Court heard oral argument on the application for leave to appeal the October 29, 2004 judgment of the Court of Appeals. On order of the Court, pursuant to MCR 7.302(G)(1), the application for leave to appeal is again considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court. The motion for leave to file brief amicus curiae is DENIED as moot.

CORRIGAN, J., concurs and states as follows:

I concur in the majority's decision to deny leave to appeal on the facts of this case. Nonetheless, I remain interested in the problem presented. The question is not whether the prevailing attorney should receive a fee, but from whom. Defendant raises a jurisprudentially significant issue involving the longstanding improper interpretation of the term "prorate." MCL 418.315(1) apparently directs that attorney fees be prorated rather than added to the medical benefits as discussed in Commissioner Richard Leslie's concurrence in *Stankovic v Kasle Steel Corporation*, 2000 Mich ACO 124.



t0131

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.

February 3, 2006

Corbin R. Davis

Clerk