

Order

Michigan Supreme Court
Lansing, Michigan

November 23, 2011

143455

LINDA A. KIRBY,
Plaintiff-Appellee,

v

GENERAL MOTORS CORPORATION,
Defendant-Appellant.

SC: 143455
COA: 300848
WCAC: 10-000038

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, the application for leave to appeal the May 12, 2011 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the decision of the Workers' Compensation Appellate Commission (WCAC) and we REMAND this case to the Board of Magistrates for the reasons set forth in the WCAC dissenting opinion. On remand, the magistrate shall determine, on the basis of the existing record, whether the plaintiff met her burden of proving that her wage loss following her retirement was due to her work-related disability, rather than her retirement. MCL 418.301(4); *Sington v Chrysler Corp*, 467 Mich 144, 160-161 including n 11 (2002).

MARILYN KELLY and HATHAWAY, JJ., would deny leave to appeal.



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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.

November 23, 2011

Corbin R. Davis

Clerk