

Court of Appeals, State of Michigan

ORDER

Laura Hammerle v Howling Hammer Builders Inc

Docket No. 313745

LC No. 2011-009008-NZ

Patrick M. Meter
Presiding Judge

Donald S. Owens

Stephen L. Borrello
Judges

The Court orders that the motion to dismiss this appeal filed on January 4, 2013 and the motion to dismiss this appeal filed on January 14, 2013 are both DENIED. Appellants' inaccurate statement in their jurisdictional checklist that they had filed a motion in the trial court to submit this appeal on less than the complete transcript clearly does not rise to the level of warranting the harsh sanction of dismissal of this appeal or any lesser remedy. Further, this Court has jurisdiction over this claim of appeal which was timely filed under MCR 7.204(A)(1)(a). The November 15, 2012 order is appealable of right as a postjudgment order awarding attorney fees and costs as case evaluation sanctions. MCR 7.202(6)(a)(iv); MCR 7.203(A)(1). However, we note that the scope of this appeal is limited to review of that November 15, 2012 order awarding case evaluation sanctions. See MCR 7.203(A) (appeal of right from order described in MCR 7.202(6)(a)(iv) "is limited to the portion of the order which respect to which there is an appeal of right"). In this regard, appellants' view that the November 15, 2012 order is also a final order under MCR 7.202(6)(a)(i) must be rejected because it would render MCR 7.202(6)(a)(iv) nugatory or superfluous. Thus, issues regarding earlier orders entered by the trial court as to the merits of the claims in this case are not in the proper scope of this appeal. It appears that the final judgment or order in this case was entered on August 8, 2012. At this time, appellants may seek to appeal that August 8, 2012 judgment or order by filing a delayed application for leave to appeal. See MCR 7.205(F)(3)(b).



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 08 2013

Date


Chief Clerk