Court of Appeals, State of Michigan

ORDER

Zurich American Insurance Company v NES Traffic Safety LP

Docket Nos. 318103; 318129

LC No. 12-000527-CK

Peter D. O'Connell
Presiding Judge

Donald S. Owens

Stephen L. Borrello
Judges

The Court orders that the motions for immediate consideration are DENIED because the ground on which immediate consideration was sought is now moot.

The motions for leave to file reply briefs to the answers to the motions to dismiss are GRANTED.

The motions to dismiss the claims of appeal in both of these consolidated appeals are GRANTED. The August 21, 2013 order appealed from in both appeals is not a final order under MCR 7.202(6)(a)(i) because it does not dispose of appellees' claims for contract-based attorney fees where it only makes determinations regarding liability without awarding an amount of attorney fees as damages. See *Children's Hosp of Michigan v Auto Club Ins Ass'n*, 450 Mich 670, 677; 545 NW2d 592 (1996) (orders granting only declaratory relief but not awarding damages on monetary claims not final orders); *Central Transport, Inc v Fruehauf Corp*, 139 Mich App 536, 548; 362 NW2d 823 (1984) (attorney fees awarded under contractual provisions are damages). We note that either appellant may file an application for leave to appeal the August 21, 2013 order or, alternatively, may file a claim of appeal following entry of a final order under MCR 7.202(6)(a)(i).

The claims of cross appeal in both consolidated appeals are also DISMISSED. Because there is no proper appeal of right in these consolidated appeals it follows that there is no right to take a cross appeal. MCR 7.207(A)(1).

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

DEC 19 2013
Date

Chief Clerk