

Order

Michigan Supreme Court
Lansing, Michigan

November 2, 2011

143034

JUDITH D. GEOGHEGAN,
Plaintiff-Appellee,

v

NORTHWEST AIRLINES, INC., and
LIBERTY MUTUAL INSURANCE
COMPANY,
Defendants-Appellants.

Robert P. Young, Jr.,
Chief Justice

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

SC: 143034
COA: 299759
WCAC: 09-000201

On order of the Court, the application for leave to appeal the April 7, 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 REMAND this case to the Michigan Compensation Appellate Commission, the successor to the Workers' Compensation Appellate Commission (WCAC), for reconsideration of the defendants' partial disability issue, which relies on *Lofton v AutoZone, Inc*, 482 Mich 1005 (2008). In light of the WCAC's determination that the magistrate should not have found that the plaintiff established "total incapacity" because "[n]one of the physicians opined that the plaintiff was completely unable to work during all relevant time periods," the WCAC erred by failing to consider application of the partial disability provision of the Worker's Disability Compensation Act, MCL 418.361(1).

In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. We do not retain jurisdiction.

MARILYN KELLY and HATHAWAY, JJ., would simply 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 2, 2011

Corbin R. Davis

Clerk