

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2013

146371 & (308)

DANIEL ADAIR, *et al.*,
Plaintiffs-Appellants,

v

STATE OF MICHIGAN,
Defendant-Appellee.

SC: 146371
COA: 230858

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

On order of the Court, the motion for expedited decision is GRANTED. The application for leave to appeal the November 6, 2012 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that portion of the Court of Appeals judgment denying all attorney fees for Phase II of the plaintiffs' Headlee Amendment litigation. As explained by the special master, the plaintiffs established that their attorneys performed reasonable and necessary work relating to the record keeping claim for which they are entitled to attorney fees. *Adair v Michigan*, 486 Mich 468, 493-494 (2010). We REMAND this case to the Court of Appeals to articulate on the record specific factual findings regarding the amount of attorney fees that are properly compensable for Phase II and enter an award consistent with those findings, bearing in mind that the burden of proof to establish the attorney time devoted to the record keeping claim and the reasonableness of the requested fees rests on the plaintiffs. See *Smith v Khouri*, 481 Mich 519, 528-529 (2008) (opinion by TAYLOR, C.J.). 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.



t0521

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.

May 24, 2013

Corbin R. Davis

Clerk