

# Order

Michigan Supreme Court  
Lansing, Michigan

January 27, 2016

Robert P. Young, Jr.,  
Chief Justice

151417

Stephen J. Markman  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

RENEE B. LAFAVE, SHIRLEY ZIMMER,  
RONALD PROCTOR, and JOANN M.  
PROCTOR,

Plaintiffs/Counter-Defendants-  
Appellees,

and

LAWRENCE R. MCCALED,   
Plaintiff,

v

SC: 151417  
COA: 315439  
Ionia CC: 2010-027799-CH

IONIA COUNTY ROAD COMMISSION  
CHAIRPERSON, JOHN BUSH, STATE  
TREASURER, CHARLES LLOYD BABCOCK,  
DAWN KONENSKI, ROGER KONENSKI,  
LEON PLATTE TRUST, ALICIA BETZ,  
MEDFORD BAILEY, ROBERT ZIMMER,  
TRACY ANTHONY, DANIEL R. ZIMMER,  
JODIE L. ZIMMER, DAWN ALDRICH,  
PATRICIA LIPPINCOTT TRUST, JOHANNA  
PARSHALL, MICHELLE DROSTE, EUGENE  
DROSTE, DIRECTOR OF DEPARTMENT OF  
NATURAL RESOURCES, CONSUMERS  
ENERGY CO., AT&T, HOMEWORKS  
TRI-COUNTY ELECTRIC CO-OP, TOWNSHIP  
OF LYONS, IONIA COUNTY ROAD  
COMMISSION, and DIRECTOR OF  
DEPARTMENT OF LICENSING AND  
REGULATORY AFFAIRS

Defendants,

and

SALLY N. COOK,  
Defendant/Counter-Plaintiff,

and

MOLLY E. KANDLE-KOST and JAMES KOST,  
Defendants/Counter-Plaintiffs-  
Appellants.

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On order of the Court, the application for leave to appeal the January 27, 2015 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE that part of the Court of Appeals opinion applying the law of abandonment to the facts of this case. The Court of Appeals erred by finding that the facts on record are sufficient to demonstrate defendants Molly Kandle-Kost and James Kost intended to abandon their easement rights in Weberta Drive, particularly in light of the failure of the trial court to make any findings on abandonment or the precise nature of defendants' property right. We therefore REMAND this case to the Ionia Circuit Court for findings on the nature of any property right retained by defendants Molly Kandle-Kost and James Kost in Weberta Drive. Once that court has determined the nature of that right, it should determine whether an abandonment analysis is applicable and, if it is applicable, make any necessary findings regarding whether defendants intended to abandon their property rights in Weberta Drive. See *Dep't of Natural Resources v Carmody-Lahti Real Estate, Inc*, 472 Mich 359, 385 (2005). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.



a0120

I, Larry S. Royster, 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.

January 27, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk