

Order

Michigan Supreme Court
Lansing, Michigan

May 26, 2023

Elizabeth T. Clement,
Chief Justice

164953-4

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

SUSAN CHILDERS, as Conservator for
JUSTIN CHILDERS, a Legally Incapacitated
Person,

Plaintiff,

and

MICHIGAN PROPERTY & CASUALTY
GUARANTY ASSOCIATION,
Intervening Plaintiff-Appellee,

v

SC: 164953
COA: 356914
Genesee CC: 13-101626-NF

PROGRESSIVE MARATHON INSURANCE
COMPANY,
Defendant-Appellant.

SUSAN CHILDERS, as Conservator for
JUSTIN CHILDERS, a Legally Incapacitated
Person,

Plaintiff-Appellee,

and

MICHIGAN PROPERTY & CASUALTY
GUARANTY ASSOCIATION,
Intervening Plaintiff,

v

SC: 164954
COA: 356915
Genesee CC: 13-101626-NF

PROGRESSIVE MARATHON INSURANCE
COMPANY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the September 15, 2022 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) at what point does a claim for recovery of personal protection insurance benefits payable under the no-fault act accrue when an insurer providing those benefits is declared insolvent and another insurer is identified by

the Michigan Property and Casualty Guaranty Association, see generally MCL 600.5827; *Frank v Linkner*, 500 Mich 133 (2017); *Titan Ins Co v North Pointe Ins Co*, 270 Mich App 339 (2006); (2) what statute-of-limitations period would apply to such a claim, see MCL 500.3145(1); MCL 600.5813; and (3) whether the appellant is an insurer in the chain of priority insurers, see former MCL 500.3114(4), as amended by 2002 PA 38; *Dobbelaere v Auto-Owners Ins Co*, 275 Mich App 527 (2007); *Amerisure Ins Co v Coleman*, 274 Mich App 432 (2007). The total time allowed for oral argument shall be 40 minutes: 20 minutes for appellant, and 20 minutes for appellees, to be divided at their discretion. MCR 7.314(B)(2).

The Coalition Protecting Auto No-Fault, the Insurance Alliance of Michigan, and Michigan Defense Trial Counsel, Inc. are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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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.

May 26, 2023

Clerk