

Order

Michigan Supreme Court
Lansing, Michigan

November 2, 2022

Bridget M. McCormack,
Chief Justice

164317

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

OLIVER RAVENELL,
Plaintiff,

and

NGM INSURANCE COMPANY,
Plaintiff-Appellee,

v

SC: 164317
COA: 348436
Wayne CC: 17-009231-NF
16-006161-NF

AUTO CLUB INSURANCE ASSOCIATION,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 27, 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 address the extent to which the reasonableness of an insurer's mistaken belief that it was required to pay a claim is a factor in determining whether the insurer is entitled to equitable subrogation. See *Esurance Prop & Cas Ins Co v Mich Assigned Claims Plan*, 507 Mich 498 (2021); see also 83 CJS, Subrogation, § 43 ("Equitable subrogation will not be used to benefit parties who were negligent in their business transactions, or who failed to act according to ordinary and reasonable business practices and who were obviously in the best position to protect their own interests."); 73 Am Jur 2d, Subrogation, § 17 ("One charged with culpable negligence may not be entitled to equitable subrogation. . . . Ordinary negligence may be taken into consideration in determining whether the negligent party is entitled to subrogation, but ordinary negligence alone is not a complete bar to subrogation where, in spite of such negligence, the equities are still in favor of the subrogee.").



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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.

November 2, 2022

Clerk