

Order

Michigan Supreme Court
Lansing, Michigan

March 22, 2023

Elizabeth T. Clement,
Chief Justice

164970 & (75)(76)

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

TYNINA FLOWERS,
Plaintiff-Appellant,

v

SC: 164970
COA: 354436
Wayne CC: 18-015328-NI

KEVIN WILSON and CHERI MICHELLA
PETRI,
Defendants,

and

AUTO CLUB INSURANCE ASSOCIATION
and MEMBERSELECT INSURANCE
COMPANY,
Defendants-Appellees.

On order of the Court, the motions of the defendants-appellees to extend the time for filing their answer and of the Michigan Association for Justice to file a brief amicus curiae are GRANTED. The application for leave to appeal the September 22, 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 whether an insurer's partial payment of the insured's medical expenses on the basis of what the insurer considers reasonable, along with the insurer's promise to defend and indemnify the insured with respect to any remaining liability to the insured's healthcare providers if they challenge the amounts paid or seek additional payment, deprives the insured of a cause of action for personal protection insurance benefits for allowable expenses pursuant to MCL 500.3107(1)(a). See *McGill v Auto Ass'n of Mich*, 207 Mich App 402 (1994); *LaMothe v Auto Club Ins Ass'n*, 214 Mich App 577 (1995), overruled in part on other grounds by *Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co*, 500 Mich 191 (2017).

The Coalition Protecting Auto No-Fault, the Insurance Alliance of Michigan, and Michigan Defense Trial Counsel, Inc. are invited to file briefs amicus curiae. Amici who

appeared at the application stage are invited to file supplemental briefs amicus curiae. Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae.



a0315

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.

March 22, 2023

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

Clerk