Court of Appeals, State of Michigan

ORDER

HARLOW HOSPITALITY LLC V CONIFER INSURANCE COMPANY

Docket No. 379112

LC No. 22-001878-CK

Brock A. Swartzle
Presiding Judge

Thomas C. Cameron

Christopher M. Trebilcock
Judges

The delayed application for leave to appeal is GRANTED. The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(E)(3).

Pursuant to MCR 7.205(E)(4) and *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 399; 651 NW2d 756 (2002) ("a court is continually obliged to question sua sponte its own jurisdiction over a person, the subject matter of an action, or the limits of the relief it may afford"), this appeal is not limited to the issues raised in the delayed application and supporting brief. Instead, in addition to the issues raised in the delayed application, the parties should address the following questions:

> (1) whether the trial court's March 27, 2024 order constituted a "final" order, as defined by MCR 7.202(6)(a), in LC Case No. 22-001878-CK (the "-CK action");
>
> (2) if so, whether this Court lacks jurisdiction over the instant delayed application as it applies to the -CK action;
>
> (3) whether, under the circumstances at bar, equitable tolling might be appropriate to extend the applicable jurisdictional time limit under MCR 7.205(A); and
>
> (4) assuming that this Court has appellate jurisdiction, whether appellant is attempting to improperly use this appeal to collaterally attack orders over which this Court no longer has jurisdiction.

See *Bryant v Oakpointe Villa Nursing Ctr*, 471 Mich 411, 432; 684 NW2d 864 (2004) ("[U]nder ordinary circumstances, plaintiff's . . . medical malpractice complaint . . . would be time-barred. * * * The equities of this case, however, compel a different result. . . . Plaintiff's failure to comply with the applicable statute of limitations is the product of an understandable confusion about the legal nature of her claim, rather than a negligent failure to preserve her rights."); *Chen v Wayne State Univ*, 284 Mich App 172, 199; 771 NW2d 820 (2009) ("[T]he consolidation did not merge the two cases; instead, both cases retained their separate identities. Because the cases retained their separate identities, the time for appeal must be determined by reference to the final judgment or order for the individual cases.") (citation omitted); *Bergeron v Busch*, 228 Mich App 618, 623; 579 NW2d 124 (1998) ("Consolidation is permitted as a matter of convenience and economy in administration, but does not merge the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another.") (quotation marks and citation omitted); *Faircloth v Family Independence Agency*, 232 Mich App 391, 400; 591 NW2d 314 (1998) ("Mere certification, . . . does not resolve whether an order is actually 'final.' ").

On the Court's own motion pursuant to MCR 7.216(A)(7), this case is CONSOLIDATED with the delayed application in Docket No. 379072, *Harlow Hospitality LLC v Kathy D Hamlin*.

Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

May 4, 2026
Date

Chief Clerk