

STATE OF MICHIGAN
COURT OF APPEALS

CHARLES KAMINSKI and JOHN MARRA,

Plaintiffs-Appellees,

v

CITY OF LINCOLN PARK,

Defendant-Appellant.

UNPUBLISHED

August 25, 2022

No. 357891

Wayne Circuit Court

LC No. 20-013442-CB

Before: JANSEN, P.J., and O’BRIEN and HOOD, JJ.

HOOD, J. (*concurring*).

I concur in the result only because we are bound by *Kendzierski v Macomb Co*, 503 Mich 296; 931 NW2d 604 (2019). This case illustrates that *Kendzierski* was wrongly decided. On their face, the 2002 CBA and the early retirement agreement both appear to unambiguously provide for retirement benefits during retirement. See *id.* at 331-334 (MCCORMACK, J., dissenting). Although we cannot consider parties’ conduct when analyzing an unambiguous contract, it is noteworthy that plaintiffs, defendant, the emergency manager, and the State Treasurer appear to have had a shared understanding that the 2002 CBA and early retirement agreement were effective at the time the emergency manager issued Order 24. Through the issuance of Order 24 and his April 2015 correspondence with then-State Treasurer Clinton, the emergency manager indicated his understanding that the 2002 CBA was effective at least through April 2015. But because we are bound by *Kendzierski*, I concur in the result.

/s/ Noah P. Hood