

STATE OF MICHIGAN  
COURT OF APPEALS

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C-SPINE ORTHOPEDICS, PLLC,

Plaintiff-Appellant,  
and

CARMIYA ANDREWS,

Other-Party,

v

PROGRESSIVE MARATHON INSURANCE  
COMPANY and PROGRESSIVE MICHIGAN  
INSURANCE COMPANY,

Defendants-Appellees.

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UNPUBLISHED  
December 14, 2023

No. 362290  
Oakland Circuit Court  
LC No. 2020-185418-NF

Before: O'BRIEN, P.J., and K. F. KELLY and M. J. KELLY, JJ.

K. F. KELLY, J. (*concurring*)

I concur with the majority that the case must be reversed and remanded under *C-Spine Orthopedics, PLLC v Progressive Mich Ins Co [C-Spine I]*, \_\_\_ Mich App \_\_\_, \_\_\_; NW2d \_\_\_ (2022) (Docket No. 358170),<sup>1</sup> which governs the outcome of this appeal. I also write to express my agreement with the majority that C-Spine’s attorneys have conducted themselves in a manner unbecoming of members of the legal profession by engaging in gamesmanship during discovery and misleading the trial court with half-truths. Accordingly, I concur.

/s/ Kirsten Frank Kelly

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<sup>1</sup> On September 13, 2023, the Michigan Supreme Court scheduled argument to consider Progressive Michigan’s application for leave to appeal, instructing the parties to address “whether a plaintiff has standing and is a real party in interest if, before filing a cause of action, it had assigned its rights to that cause of action to third parties but, after filing the cause of action, the third parties assign those rights back to it.” *C-Spine Orthopedics, PLLC v Progressive Mich Ins Co*, \_\_\_ Mich \_\_\_; 994 NW2d 516 (2023).