

Order

Michigan Supreme Court
Lansing, Michigan

April 18, 2024

Elizabeth T. Clement,
Chief Justice

166575

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

HEATHER MALONE,
Plaintiff-Appellant,

v

SC: 166575
COA: 356416
Livingston CC: 19-030275-NI

CONOR THOMPSON McRELL and ZHETMAN
BRIGHTON, LC,
Defendants-Appellees,

and

FARMERS INSURANCE EXCHANGE,
Defendant.

On order of the Court, the application for leave to appeal the October 26, 2023 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: (1) whether the 1995 amendment of MCL 600.2925d(a) abrogated the common-law rule that “a valid release of an agent for tortious conduct operates to bar recovery against the principal on a theory of vicarious liability, even though the release specifically reserves claims against the principal.” *Theophelis v Lansing Gen Hosp*, 430 Mich 473, 480 (1988) (opinion by GRIFFIN, J.); and (2) if the 1995 amendment of MCL 600.2925d(a) did not abrogate this common-law rule, whether this Court should nonetheless abandon it. See *Price v High Pointe Oil Co, Inc*, 493 Mich 238, 258 (2013); *People v Woolfolk*, 497 Mich 23, 26 (2014); *Theophelis*, 430 Mich at 497-529 (opinion by LEVIN, J.).

The Michigan Association for Justice and the Michigan Defense Trial Counsel, Inc., are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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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.

April 18, 2024

Clerk