Court of Appeals, State of Michigan

ORDER

JOHN W TAYLOR V STERLING OAKS ASSOCIATION

Docket No. 381482

LC No. 2026-000544-AV

Randy J. Wallace
Presiding Judge

Sima G. Patel

Christopher M. Trebilcock
Judges

The motion to file a supplemental brief is DENIED. The first motion to file a reply brief is GRANTED, and reply brief filed with the motion on August 21, 2026 is accepted. The second motion to file a reply brief is DENIED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court VACATES IN PART the May 21, 2026 circuit court order, VACATES IN PART the December 30, 2025 district court order, and REMANDS to the district court for further proceedings. The district court did not err by dismissing the basement settlement claim on the basis of res judicata because, with due diligence, plaintiff could have pleaded a breach-of-settlement claim in the third lawsuit, filed in December 2023. See *Adair v State*, 470 Mich 105, 121 & 126 n 17; 680 NW2d 386 (2004). The district court erred, however, by failing to address plaintiff's second claim, i.e., his assertion that defendants refused to address plaintiff's "other maintenance requests" as required by the condo documents. Plaintiff has identified instances when defendants allegedly failed to act in response to his maintenance requests, including recent incidents after the conclusion of the third lawsuit. The district court failed to address—and defendants do not explain—how plaintiff could have raised these issues with due diligence in one of the earlier lawsuits. See *id*. at 121; see also *Richards v Tibaldi*, 272 Mich App 522, 531; 726 NW2d 770 (2006) ("The burden of establishing the applicability of res judicata is on the party asserting the doctrine."). On remand, the district court shall consider whether res judicata bars some or all of plaintiff's additional maintenance claims. In all other respects, the application is DENIED for lack of merit in the grounds presented.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Randy J. Wallace
Presiding Judge

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

November 18, 2026
Date

Jerome W. Zimmer Jr.
Chief Clerk