

STATE OF MICHIGAN
COURT OF APPEALS

SAMANTHA NORRIS-JURY,

Plaintiff-Appellee,

v

STATE FARM INSURANCE COMPANY,

Defendant-Appellant.

UNPUBLISHED

May 20, 2014

No. 311148

Ingham Circuit Court

LC No. 09-000046-NF

Before: SHAPIRO, P.J., and MARKEY and STEPHENS, JJ.

MARKEY, J., (*concurring in part, dissenting in part*).

I agree with the majority opinion in every respect except for its discussion pertaining to any preclusive effect of the original judgment dated April 20, 2011, which we are reinstating. Specifically, I believe that the entire final paragraph of the Analysis section is dicta because it discusses an issue not before us; consequently, I disavow it.

As appellate judges, we are to decide existing cases and controversies; we do not provide advisory opinions. Here, we are reinstating the original judgment. Neither party raised and preserved an issue regarding its effect on any potential future claims, were it even possible for any to be brought at this juncture. Indeed, plaintiff introduced and counsel conceded that she put all her alleged injuries before the jury “so as to prove causation.” She also insisted on the special verdict form the jury used and which simply asked generally whether plaintiff had sustained an accidental bodily injury and notwithstanding the simultaneous assertion that the case was based solely on plaintiff’s claimed injury to her knees. Although not before us, one could argue that plaintiff had her day in court for any and all claims stemming from this auto accident.

/s/ Jane E. Markey