

STATE OF MICHIGAN  
COURT OF APPEALS

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MICHAEL DEMERY,

Plaintiff-Appellee,

v

AUTO CLUB INSURANCE ASSOCIATION

Defendant,

and

MICHIGAN CATASTROPHIC CLAIMS  
ASSOCIATION,

Appellant.

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UNPUBLISHED

June 3, 2014

No. 310731

Oakland Circuit Court

LC No. 2011-117189-NF

Before: O'CONNELL, P.J., and WILDER and METER, JJ.

O'CONNELL, P.J. (*dissenting*).

I respectfully dissent.

This Court reviews for an abuse of discretion a trial court's decision to compel discovery. *Cabrera v Ekema*, 265 Mich App 402, 405; 695 NW2d 78 (2005). "The abuse of discretion standard recognizes that there will be circumstances where there is no single correct outcome and which require us to defer to the trial court's judgment . . . ." *Porter v Porter*, 285 Mich App 450, 455; 776 NW2d 377 (2009), citing *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). A trial court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes. *Smith v Khouri*, 481 Mich 519, 526; 752 NW2d 472 (2008).

In this case, I find no abuse of discretion in the trial court's decision. The fact that the majority has a different view of the evidence does not establish an abuse of discretion by the trial court. In essence, the trial court found that the Michigan Catastrophic Claims Association (MCCA) had some input in adjusting the rates at issue. Given the limited lower court record, the trial court's decision was within the range of reasonable and principled outcomes. While this Court may have some doubts about the trial court's decision to compel discovery, I cannot

conclude that the decision was an abuse of discretion. I would affirm the trial court's discovery order.

/s/ Peter D. O'Connell