Order

Michigan Supreme Court
Lansing, Michigan

September 19, 2025

165577

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

PROGRESSIVE MARATHON INSURANCE COMPANY,
Plaintiff-Appellee,

v

SC: 165577
COA: 358849
Tuscola CC: 20-031393-CZ

JOHN MICHAEL PENA and KRYSTLE SEWELL,
Defendants-Appellants,
and

BRITTNEY GIDDINGS,
Defendant.

_____/

By order of July 31, 2024, the application for leave to appeal the January 26, 2023 judgment of the Court of Appeals was held in abeyance pending the decision in *Bonter v Progressive Marathon Ins Co* (Docket No. 166182). On order of the Court, the case having been decided on July 2, 2025, ___ Mich ___ (2025), the application is again considered. Pursuant to MCR 7.305(I)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals to the extent that it is inconsistent with *Bonter* and REMAND this case to that court for consideration of the plaintiff's remaining argument. The stipulation to dismiss pursuant to MCR 7.318 is DENIED without prejudice to any future motions the parties may wish to bring in the Court of Appeals. See, e.g., MCR 7.218.

We do not retain jurisdiction.

BERNSTEIN, J., did not participate because he has a family member with an interest that could be affected by the proceeding.

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I, Elizabeth Kingston-Miller, 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.

September 19, 2025

Clerk