STATE OF MICHIGAN

COURT OF APPEALS

DEANNA EPPERSON,

Plaintiff-Appellee,

v

AHMED MOHAMED ELGOHAIM,

Defendant-Appellant.

UNPUBLISHED
March 6, 1998

No. 199624
Washtenaw Circuit Court
LC No. 95-002093

Before: Sawyer, P.J., and Wahls and Reilly, JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's entry of a judgment for plaintiff. We reverse.

This case arises from an automobile accident involving plaintiff and defendant. Plaintiff filed a complaint alleging that defendant's negligent operation of his vehicle caused the accident, and that as a direct and proximate result of the accident, she suffered a serious impairment of body function. Defendant claimed that plaintiff was comparatively negligent, that the accident was not proximately caused by defendant's actions or omissions, and that plaintiff did not suffer a serious impairment of body function or permanent serious disfigurement so as meet the no-fault threshold. A jury trial was scheduled. However, when an adjuster from defendant's insurance company failed to appear at a settlement conference as directed, the trial court entered an order of default against defendant. Subsequently, the trial court entered an order setting aside the default contingent upon defendant's payment of $2,500 to plaintiff for costs associated with the settlement conference. Defendant refused to pay the $2,500 and the default was not set aside. After a bench hearing on the issue of damages, plaintiff was awarded $25,000 for noneconomic loss, together with costs, interest, and attorney fees.

On appeal, defendant argues that the trial court erred in entering an order of default against him based on the nonattendance of a representative of his insurance company at the settlement conference. We agree. We review a trial court's entry of a default judgment under an abuse of discretion standard. *McGee v Macambo Lounge, Inc*, 158 Mich App 282, 285; 404 NW2d 242 (1987). In this case, a determination whether default was properly entered requires

interpretation of MCR 2.401(G). Construction of a court rule is a question of law. *Bruwer v Oaks (On Remand)*, 218 Mich App 392, 397; 554 NW2d 345 (1996). This Court reviews questions of law de novo. *Id.*

The policy of this state generally favors the meritorious determination of issues. *Gavulic v Boyer*, 195 Mich App 20, 24; 489 NW2d 124 (1992). In order to be valid, a default judgment must be sanctioned by applicable state court rules. *McGee*, *supra* at 285. Pursuant to MCR 2.401(F), a trial court may direct persons with authority to settle the case including "the parties to the action, agents of the parties, representatives of the lienholders, or representatives of insurance carriers" to attend a conference at which meaningful discussion of settlement is anticipated. Default for failure to attend a settlement conference is governed by MCR 2.401(G), which provides, in pertinent part:

> (1) Failure of a party or the party's attorney to attend a scheduled conference, as directed by the court, constitutes default to which MCR 2.603 is applicable or grounds for dismissal under MCR 2.504(B).

Court rules are construed in the same manner as statutes. *Bruwer*, *supra* at 397. If the language of the court rule is clear, this Court should apply it as written. *Id*. Although MCR 2.401(F) gives a trial court the authority to direct the attendance of various individuals, including representatives of insurance carriers, at settlement conferences, MCR 2.401(G) only authorizes the trial court to enter default when a "party" or the "party's attorney" fails to attend a settlement conference. A basic tenet of statutory construction is that the express mention in a statute of one thing implies the exclusion of other similar things. *Jennings v Southwood*, 446 Mich 125, 142; 521 NW2d 230 (1994). The express mention of "a party" or "the party's attorney" clearly implies the exclusion of other persons from MCR 2.401(G), particularly when other persons, such as insurance representatives, are expressly mentioned in the preceding subsection. Accordingly, because the entry of the order of default against defendant for the failure of the insurance adjuster to appear was not sanctioned by MCR 2.401(G), we hold that the trial court abused its discretion in entering the order of default against defendant. *McGee*, *supra* at 285-288; see also *Kornak v Auto Club Ins Ass'n*, 211 Mich App 416, 421-422; 536 NW2d 553 (1995).

Given our conclusion on defendant's first issue on appeal, we need not address defendants remaining argument that the trial court abused its discretion when it conditioned the setting aside of the default on defendant's payment of $2,500 to plaintiff.

Reversed.

/s/ David H. Sawyer
/s/ Myron H. Wahls
/s/ Maureen Pulte Reilly