

STATE OF MICHIGAN
COURT OF APPEALS

HORACE S. THOMAS,

Plaintiff-Appellant,

v

BOB BEAMAN and LAUREEN RENEE FOX,

Defendants-Appellees.

UNPUBLISHED

June 6, 2000

No. 210414

Wayne Circuit Court

LC No. 96-630566-NI

Before: O'Connell, P.J., and Meter and T.G. Hicks*, JJ.

PER CURIAM.

Plaintiff appeals by delayed leave granted the circuit court's order removing this case to district court. We reverse and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On April 15, 1996, plaintiff was injured in a collision with a vehicle owned by defendant Fox and driven by defendant Beaman. On June 26, 1996, plaintiff filed suit in circuit court, alleging damages exceeding \$50,000. A mediation panel evaluated the case at \$12,500, and defendants rejected the evaluation.

Pursuant to 1996 PA 388, effective January 1, 1998, the Legislature raised the jurisdictional limit for civil actions in district court to \$25,000 from \$10,000. MCL 600.8301(1); MSA 27A.8301(1). Thereafter, on April 24, 1998, the circuit court ordered the instant case removed to district court. In doing so, the circuit court relied on MCR 2.227.

Plaintiff argues that the circuit court erred by relying on MCR 2.227 in removing this case to district court. Statutory interpretation and the interpretation of court rules are questions of law that we review de novo. *Oakland County Bd of Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998); *Grzesick v Cepela*, 237 Mich App 554, 559; 603 NW2d 809 (1999).

* Circuit judge, sitting on the Court of Appeals by assignment.

We agree that the trial court erred in using MCR 2.227 to transfer this case to district court. Pursuant to 1996 PA 374, effective January 1, 1997, the Legislature repealed MCL

600.641; MSA 27A.641, which vested the circuit court with authority to remove a case to district court if it appeared, at the conclusion of a hearing, that the damages sustained may be less than the jurisdictional amount in controversy applicable to district court. Thereafter, effective January 1, 1997, our Supreme Court repealed MCR 4.003, the court rule that implemented the removal procedure. At the time the circuit court transferred the case, therefore, no statute or rule allowing an amount-in-controversy removal procedure existed.¹ In Administrative Order (AO) No. 1998-1, 457 Mich lxxxv (1998), issued on June 16, 1998, our Supreme Court deemed reliance on MCR 2.227 as a substitute for MCL 600.641; MSA 27A.641 improper, and precluded the removal of a case from circuit court to district court pursuant to MCR 2.227 except under limited circumstances.

The Court stated:

It appearing that some courts have been improperly using transfers of actions under MCR 2.227 as a substitute for the former removal procedure, and that some procedure for utilizing district judges to try actions filed in circuit court would promote the efficient administration of justice, we adopt this administrative order, effective immediately, to apply to actions filed after January 1, 1997.

A circuit court may not transfer an action to district court under MCR 2.227 based on the amount in controversy unless: (1) The parties stipulate to the transfer and to an appropriate amendment of the complaint, see MCR 2.111(B)(2); or (2) From the allegations of the complaint, it appears to a legal certainty that the amount in controversy is not greater than the applicable jurisdictional limit of the district court. [AO No. 1998-1, 457 Mich lxxxv, lxxxv-lxxxvi (1998) (emphasis added).]

AO No. 1998-1 makes clear that MCR 2.227 cannot be used as a mere substitute for former MCL 600.641; MSA 27A.641 and MCR 4.003. Instead, a case can be removed to district court based on the amount in controversy only if one of the two conditions specified in AO No. 1998-1 is satisfied. However, according to the plain language of AO No. 1998-1, a transfer based on one of these two conditions is allowable only for cases filed after January 1, 1997. The instant case was filed on June 26, 1996. Accordingly, the circuit court was without statutory or court rule authority to remove this case to district court. Indeed, AO No. 1998-1 sets forth no amount-in-controversy removal procedure for cases filed before January 1, 1997. Consequently, the circuit court erred by removing this case to district court.

Reversed and remanded to circuit court. We do not retain jurisdiction.

/s/ Peter D. O'Connell
/s/ Patrick M. Meter
/s/ Timothy G. Hicks

¹ We note that when MCL 600.641; MSA 27A.641 and MCR 4.003 were repealed, neither the Legislature nor the Supreme Court evidenced an intent to exempt cases filed before January 1, 1997 from the effect of the repealers. Therefore, even though this case was filed in 1996, the court nevertheless lacked authority, in April 1998, to remove this case to district court.