

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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AMERICAN PAYTEL CORPORATION and  
PAYTEL STOCKHOLDERS,

UNPUBLISHED  
November 30, 2001

Plaintiffs-Appellees,

v

No. 231594  
Ingham Circuit Court  
LC No. 99-089545 CZ

ROBERT MILLER, GLORIA MILLER, STACEY  
MILLER, GLEN GEBAUER, G & M  
COMMUNICATIONS, L.L.C., STEVE  
AKRIGHT, and RICHARD MAKENS,

Defendants,

and

NATIONWIDE COMMUNICATIONS, INC.,

Defendant-Appellant,

and

INTERNATIONAL FIDELITY INSURANCE  
COMPANY,

Appellee.

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Before: O'Connell, P.J., and White and Smolenski, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

Under the circumstances of this case, where this Court has denied leave to appeal various orders of the circuit court, leading to the present situation where a bond has continued in effect to secure a stay of the circuit court's order of civil contempt, which the circuit court has treated as a final judgment and regarding which the circuit court clearly intended to permit immediate enforcement, and where the appeals have been dismissed or denied by this Court, I am constrained to concur with the majority's conclusion that the circuit court had the authority to enter judgment on the bond.

To the extent that the order granting leave to appeal can be understood as raising the issue whether the circuit court should have exercised its discretion to withhold entering judgment on the bond, and continue the bond in effect instead, I would hold that the court abused its discretion by failing to follow that course.

Further, assuming, *arguendo*, that the court rules contemplate the entry of non-final orders or judgments requiring the payment of money as compensation, which are immediately enforceable but not appealable, in the exercise of the court's contempt powers or otherwise, I conclude that in the instant case the circuit court abused its discretion in declaring the compensatory sanction immediately enforceable.<sup>1</sup> The immediate enforcement of the sanction was not necessary to assure the orderly progression of the case. The sanction was purely compensatory in nature and was not imposed to coerce compliance.

I would vacate the judgment on the bond.

/s/ Helene N. White

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<sup>1</sup> It is unclear whether this issue is before us. It was implicated in the circuit court's denial of defendant's motion to withdraw bond, as to which this Court denied defendant's application for leave to appeal, and the majority does not address the issue. On the other hand, the issue whether judgment should have been entered on the bond before resolution of the remaining issues on the merits, the issue as to which leave was granted, can fairly be seen to include the issue whether the order for sanctions was enforceable before resolution of the remaining issues on the merits.