

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

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DAVID TESHUBA,

Plaintiff-Appellant,

v

NABIL AL-CHAIB,

Defendant-Appellee.

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UNPUBLISHED

April 25, 2000

No. 209717

Wayne Circuit Court

LC No. 95-534546-NI

Before: Kelly, P.J., and Holbrook, Jr., and Griffin, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order dismissing his case with prejudice for lack of progress. We reverse.

The trial court lacked the authority to dismiss the case for lack of progress where the case was scheduled for a settlement conference. MCR 2.502(A)(2)(b). Moreover, the case had been stayed pending resolution of a related matter that had been submitted to arbitration. Even if the court had the authority to dismiss the case for lack of progress, it failed to give the requisite twenty-eight days' notice required by MCR 2.501(C); MCR 2.502(A)(3). Dismissal is improper where the required notice is not given. *Vicenio v Ramirez*, 211 Mich App 501, 504; 536 NW2d 280 (1995); *Flack v Waite*, 18 Mich App 339, 340; 170 NW2d 922 (1969).

Reversed.

/s/ Michael J. Kelly

/s/ Donald E. Holbrook, Jr.

/s/ Richard Allen Griffin