

STATE OF MICHIGAN
COURT OF APPEALS

DAVID CHAMNESS,

Plaintiff-Appellee,

v

MATTHEW S. DEPERNO,

Defendant-Appellant,

and

STEPHEN J. HESSEN, STEPHEN L. SIMONS, J.
RYAN CONBOY and KREIS, ENDERLE,
CALLANDER & HUDGINS, P.C.,

Defendants.

.

UNPUBLISHED

March 4, 2008

No. 267691

Kalamazoo Circuit Court

LC No. 04-000658-AV

Before: Bandstra, P.J., and Meter and Beckering, JJ.

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

I concur with the majority opinion, in result only, to the extent that it reverses the circuit court's ruling that reversed the probate court's grant of summary disposition in favor of defendants. I dissent with the majority opinion in reinstating the probate court's award of sanctions to defendants. Based upon existing case law in Michigan and elsewhere pertaining to recovery under the principles of equitable subrogation and third-party beneficiary liability, I would rule that the plaintiff's legal position was not devoid of arguable legal merit.

/s/ Jane M. Beckering