

Order

Michigan Supreme Court
Lansing, Michigan

October 28, 2013

Robert P. Young, Jr.,
Chief Justice

147356

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

ROSE M. MULVENA,
Plaintiff-Appellant,

v

SC: 147356
COA: 311126
MCAC: 11-000117

DEPARTMENT OF TRANSPORTATION,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the April 12, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Michigan Compensation Appellate Commission (MCAC) for the MCAC to review and assess all of the evidence in the record beyond that of Dr. Knitter's testimony and, in light of that evidence, to reconsider whether the magistrate's decision is supported by competent, material, and substantial evidence on the whole record. Although the MCAC's decision that Dr. Knitter's testimony is not competent evidence to prove causation is supported by the record, the magistrate relied on more than just Dr. Knitter's testimony to rule in favor of the plaintiff, and the MCAC's opinion fails to discuss this remaining evidence. As a result, the MCAC failed to assess the whole record as required by MCL 418.861a(3).

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 28, 2013

Clerk