

Order

Michigan Supreme Court
Lansing, Michigan

November 16, 2017

Stephen J. Markman,
Chief Justice

154549 & (38)

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder,
Justices

KIMBERLY MARIE MARIK,
Plaintiff-Appellee,

v

SC: 154549
COA: 333687
Macomb CC Family Division:
2011-000651-DM

PETER BRIAN MARIK,
Defendant-Appellant.

On October 11, 2017, the Court heard oral argument on the application for leave to appeal the July 12, 2016 order of the Court of Appeals. The motion to supplement oral argument is GRANTED. On order of the Court, the application is again considered. MCR 7.305(H)(1). In lieu of granting leave to appeal, we VACATE the order of the Court of Appeals and REMAND this case to that court for reconsideration of the question whether the Macomb Circuit Court's June 13, 2016 order denying the defendant father's request to change the children's school enrollment and modifying parenting time was "a postjudgment order affecting the custody of a minor" and therefore, a "final order" under MCR 7.202(6)(a)(iii) and appealable by right under MCR 7.203(A)(1). In doing so, the court shall apply the standard applicable prior to *Ozimek v Rodgers (On Remand)*, 317 Mich App 69 (2016), which we overrule. *Ozimek* erred in concluding that the term "custody" in MCR 7.202(6)(a)(iii) does not comprise the concept of legal custody. We further note that this Court has opened an administrative file, ADM File No. 2017-20, to consider amending MCR 7.202(6)(a)(iii).



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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.

November 16, 2017

Clerk