

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN GRONDA,

Plaintiff-Appellant,

v

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY and ANTHONY
MICHAEL NICE,

Defendants-Appellees.

UNPUBLISHED

June 16, 2011

No. 297430

Monroe Circuit Court

LC No. 09-026918-NI

Before: METER, P.J., and CAVANAGH and SERVITTO, JJ.

MEMORANDUM.

In this third-party tort suit brought under the no-fault act, MCL 500.3101 *et seq.*, plaintiff appeals as of right from orders granting summary disposition to defendant Anthony Michael Nice and dismissing the case. Plaintiff argues that the trial court erred when it concluded that he did not suffer a serious impairment of a body function, see MCL 500.3135(7), as a matter of law. We vacate and remand.

This case arose from a November 24, 2006, motor vehicle accident involving plaintiff and Nice. As a result of the accident, which Nice admitted he caused, plaintiff claimed significant aggravation of preexisting back injuries; he argued that his resulting impairment constituted a serious impairment of a body function under the no-fault act. The trial court granted Nice's motion for summary disposition under MCR 2.116(C)(10) with regard to the serious-impairment issue, concluding that plaintiff could not prove that he suffered an objectively manifested injury caused by the accident or that any such injury affected his general ability to lead his normal life. The court relied on the serious-impairment analysis enunciated in *Kreiner v Fischer*, 471 Mich 109; 683 NW2d 611 (2004). However, the *Kreiner* Court's interpretation of the relevant statutes has since been overruled by *McCormick v Carrier*, 487 Mich 180, 184; 795 NW2d 517 (2010). Accordingly, we vacate the trial court's orders granting summary disposition and dismissing the case and remand this case for reconsideration under the

new standards for analyzing serious-impairment claims enunciated in *McCormick*.¹ The trial court may require additional briefing or documentation, in its discretion.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto

¹ This resolution is consistent with Supreme Court orders vacating and remanding serious-impairment cases decided under *Kreiner* to the trial courts for reconsideration under *McCormick*. See, e.g., *Miller v Cooper*, 488 Mich 909; 789 NW2d 482 (2010); *Yursco v Swanson*, 488 Mich 973; 790 NW2d 835 (2010); *Wiedyk v Poisson*, 488 Mich 972; 790 NW2d 826 (2010); and *Neci v Steel*, 488 Mich 971; 790 NW2d 828 (2010). This Court has ordered similar remands of cases in which the serious-impairment question is dispositive. See, e.g. *Johnson v Recca*, ___ Mich App ___; ___ NW2d ___ (Docket No. 294363, issued April 5, 2011); *Kryzanoski v Kaule*, unpublished opinion per curiam of the Court of Appeals, issued February 22, 2011 (Docket No. 295430); *Casey v Stachlewitz*, unpublished memorandum opinion of the Court of Appeals, issued February 22, 2011 (Docket No. 295835); and *Guza v Howard*, unpublished opinion per curiam of the Court of Appeals, issued February 22, 2011 (Docket No. 295035).