

Order

Michigan Supreme Court
Lansing, Michigan

September 29, 2010

Marilyn Kelly,
Chief Justice

139666 & (53)

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

MILLER-DAVIS COMPANY,
Plaintiff-Appellant,

v

SC: 139666
COA: 284037
Kalamazoo CC: 05-000199-CK

AHRENS CONSTRUCTION, INC.,
Defendant-Appellee,

and

MERCHANT BONDING COMPANY,
Defendant.

On order of the Court, the application for leave to appeal the August 4, 2009 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether MCL 600.5839, the statute of repose for “any action” against architects, engineers, or contractors to recover damages for “any injury to property, real or personal,” governs a general contractor’s suit for a subcontractor’s breach of contract, or is instead limited to tort actions; (2) whether this particular case constitutes “any action to recover damages for any injury to property . . . arising out of the *defective and unsafe condition* of an improvement to real property;” (3) whether a claim for breach of a construction contract “accrues” under MCL 600.5807(8) on the date of “substantial completion” specified by the parties, the date the party in breach physically ceases work, the date the party in breach certifies that it has completed work, or some other date; and (4) whether, alternatively, the “occupancy of the completed improvement, use, or acceptance of the improvement” under MCL 600.5839 is limited to occupancy, use or acceptance by the owner of the property and whether the Legislature intended the terms “use” and “acceptance” to be otherwise limited in scope.

The motion for leave to file brief amicus curiae is GRANTED. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, 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.

September 29, 2010

Corbin R. Davis

Clerk