

 ORIGINAL

FILED

12/23/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 24-0687

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 24-0687

MACKENZIE CORINNE HOYER,
JULIANNA PELUSO, ALLANAH TERRETT,
EMILY CARTER, STEPHANIE KAISER,
SUZANNAH SCARCELLO, ANNA BRYANT,
CHRISTINA WARD, ANDREA NEWBY, and
JANE DOES 1-10,

Plaintiffs and Appellants,

v.

CLEARVIEW HORIZON, INC.,

Defendant,

ORDER

MIKE LINDERMAN, MICHELE MANNING,
JOHN and JANE DOES 1-50,

Defendants and Appellees,

MARSH & McLENNAN AGENCY, LLC, a
foreign limited liability company (formerly
known as PAYNEWEST INSURANCE INC.)

Intervenor-Defendants.

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DEC 23 2024

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Defendants and Appellees Mike Linderman and Michele Manning, through counsel, move to dismiss this appeal as premature, asserting that there has been no final judgment entered in the action as required by M. R. App. P. 6. Plaintiffs and Appellants oppose the motion on the ground that there are no issues remaining to be decided in the District Court.

Plaintiffs are former residents of Clearview Horizon, a therapeutic boarding school that operated in Sanders County, Montana. They filed suit against Clearview and its former employees Linderman and Manning in January 2021, seeking compensatory and punitive

damages for alleged negligence, negligent supervision, and negligent infliction of severe emotional distress. In October 2023, Plaintiffs and Clearview entered a confidential stipulated judgment, subject to a covenant not to execute. Without objection, Defendant Marsh & McLennan Agency, LLC (MMA), was granted leave to intervene to contest the reasonableness of the stipulated judgment. By order dated February 28, 2024, the District Court stayed the reasonableness hearing and all attendant issues pending a decision in a related federal court declaratory judgment action. The court ordered the Plaintiffs and MMA to update it within fourteen days of the federal court's ruling and request a scheduling order or conference.

In November 2024, the District Court dismissed with prejudice all of Plaintiffs' claims against Linderman and Manning as a sanction for Plaintiffs' discovery violations. The court entered judgment in favor of Linderman and Manning on November 18. Plaintiffs filed their notice of appeal from the sanctions order and judgment a week later. They represent that the United States District Court for the District of Montana entered its decision on November 19, 2024, ruling that the stipulated judgment in this case is inadmissible and unenforceable against MMA. Plaintiffs contend that the stipulated judgment is the only reason MMA was allowed to intervene in this case and that, with the federal court now having decided that it may not be enforced against MMA, every entity who was named or has intervened in the action "has realized a conclusive determination of their rights."

Montana law requires that "in all cases," damages "must be reasonable." Section 27-1-302, MCA. Under our case law, a reasonableness hearing must be held on a stipulated judgment when an insurer "sets forth sufficient facts to make a showing that the settlement is unreasonable[.]" *J & C Moodie Props., LLC v. Deck*, 2016 MT 301, ¶ 33, 385 Mont. 382, 384 P.3d 466 (citing *Tidyman's Mgmt. Servs. v. Davis*, 2014 MT 205, ¶ 41, 376 Mont. 80, 330 P.3d 1139). The case register on file with the Clerk of this Court does not indicate whether any status report or further scheduling order has been entered since the federal court's ruling. It is clear, however, that the District Court's stay of a reasonableness hearing on the stipulated settlement remains in effect. Although the Clerk of Court entered the

stipulated judgment upon the consent of Plaintiffs and Clearview Horizon, the District Court has not approved the stipulation, lifted the stay, or determined whether to hold a reasonableness hearing.

A judgment is final when it “conclusively determines the rights of the parties and settles all claims in controversy in an action or proceeding[.]” M. R. App. P. 4(1). The underlying case remains pending. Plaintiffs may appeal either when they obtain a final judgment on all claims in the action or an order certifying the District Court’s November 15, 2024 sanctions order as final for purposes of appeal in accordance with M. R. Civ. P. 54(b) and M. R. App. P. 6(6).

IT IS THEREFORE ORDERED that Appellee Linderman and Manning’s motion is GRANTED and this appeal is DISMISSED without prejudice.

The Clerk is directed to notify all counsel of the entry of this Order.

Dated this 23rd day of December, 2024.


Chief Justice








Justices