

Order

Michigan Supreme Court
Lansing, Michigan

February 24, 2006

128355

MARK P. JAMES,
Plaintiff-Appellee,
and

AUTO-OWNERS INSURANCE COMPANY,
Intervening Plaintiff-Appellee

v

AUTO LAB DIAGNOSTICS & TUNE UP
CENTERS and FARMERS INSURANCE
EXCHANGE,
Defendants-Appellants,
and

SECOND INJURY FUND, PERMANENT &
TOTAL DISABILITY PROVISIONS,
Defendant-Appellee.

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

SC: 128355
COA: 257993
WCAC: 04-000002

On January 11, 2006, the Court heard oral argument on the application for leave to appeal the February 22, 2005 order of the Court of Appeals. On order of the Court, the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the decision of the Worker's Compensation Appellate Commission because, under the undisputed facts, plaintiff's attendance at the seminar was not an incident of his employment. As a result, plaintiff is not entitled to benefits because his injury on the trip to the seminar did not arise out of and in the course of his employment. *Camburn v Northwest School District*, 459 Mich 471 (1999).

CAVANAGH, J., would deny leave to appeal.

WEAVER, J., dissents and states as follows:

I would remand to the Court of Appeals for consideration as on leave granted and for the application of *Camburn v Northwest School Dist (After Remand)*, 459 Mich 471 (1999).

KELLY, J., dissents and states as follows:

I would deny leave to appeal. The record contains ample facts to support the decision of the magistrate, the Workers' Compensation Appellate Commission, and the Court of Appeals that plaintiff's injury arose out of and in the course of his employment.



t0221

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.

February 24, 2006

Corbin R. Davis

Clerk