

STATE OF MICHIGAN
COURT OF APPEALS

LYNN W. FINK,

UNPUBLISHED

Plaintiff-Appellant,

v

No. 188167
Oakland Circuit Court
LC No. 95-492076-NO

DANIEL L. FINK,

Defendant-Appellee.

Before: White, P.J., and Griffin and D.C. Kolenda,* JJ.

WHITE, J. (concurring in part and dissenting in part).

I concur in the result reached by the majority opinion in so far as it affirms the award of summary disposition to defendant, affirms the transfer of the case to Judge Andrews, and vacates the award of \$500 in sanctions for a violation of MCR 8.111(D)(3).

I would remand for reconsideration of the award of \$1,500 in attorney fees under MCR 2.114(E) under the circumstance that the circuit court seems to have been under the mistaken impression that plaintiff's complaint in the instant case was filed after the court denied her motions to set aside or modify the judgment of divorce and for reconsideration.¹ In fact, it appears the motion in the divorce case and the complaint in this case were filed the same day.

/s/ Helene N. White

¹ At the summary disposition hearing, the circuit court stated twice: "After the plaintiff was unsuccessful in having the judgment set aside, she filed this action...."

* Circuit judge, sitting on the Court of Appeals by assignment.