

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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NORMAN DAVIS,

UNPUBLISHED  
February 17, 1998

Plaintiff-Appellant,

v

No. 199823  
Oakland Circuit Court  
LC No. 95-497967 NM

GERALD D. KELLER and KELLER &  
KATOWSKY, P.C.,

Defendants-Appellees.

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Before: Markey, P.J., and Doctoroff and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendant, which was a consequence of plaintiff's failure to timely file a witness list in accordance with the trial court's scheduling order. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Defendants' motion for summary disposition was taken under advisement by the trial court after oral argument on August 9, 1995. On August 13, 1995, the trial court entered its scheduling order, which required the parties to file their witness lists by November 17, 1995, and to complete discovery by December 18, 1995. There was no objection to the scheduling order nor motion to amend or vary its terms until, after the deadline for filing witness lists had expired, plaintiff on November 22, 1995, moved for an extension of time. That motion was denied contemporaneously with the denial of defendants' motion for summary disposition, and refusal of the extension of time was continued by the trial court after rehearing and reconsideration of the issue. The trial court noted that plaintiff made no effort to file his witness list until after the time for discovery had elapsed, depriving defendants of the opportunity to investigate the substance of the opinions or other evidence that might be proffered by plaintiff's experts, of whom, defendants had no prior notice. Moreover, plaintiff had ignored defendants' interrogatories, served August 31, 1995, in which the identity of plaintiff's proposed experts was solicited.

The Michigan Supreme Court has recently reaffirmed the principle that a trial court has discretion to issue and adhere to its scheduling orders in both civil and criminal cases. *People v Grove*, 455 Mich 439, 464; 566 NW2d 547 (1997). That discretion has not been abused here, where plaintiff simply ignored the scheduling order. This is not a situation where plaintiff in good faith attempted to comply with the scheduling order or timely sought to alter or amend it and was simply unable to complete the task within the time allowed. Plaintiff made no effort to meet the deadline and, until the deadline had expired, similarly took no steps to apprise the trial court of his reasons for flouting the scheduling order. No abuse of the trial court's discretion has been demonstrated on this record.

Affirmed.

/s/ Jane E. Markey

/s/ Martin M. Doctoroff

/s/ Michael R. Smolenski