

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH W. STROUP and SALLY BATEMAN
STROUP,

UNPUBLISHED

Plaintiff,

v

No. 195937
Kalamazoo Circuit Court
LC No. A 95-2820 PD

SANDY K. DERBY,

Defendant-Appellee,

and

JENNIFER STROUP,

Defendant,

and

WALSH & WALSH, PC and RICHARD C.
WALSH,

Appellants.

Before: Markey, P.J., and Kelly and Whitbeck, JJ.

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

I concur in the majority opinion to vacate the award of sanctions, but dissent as to the decision to remand. No remand was requested, no cross-appeal was filed, no creative extension of our powers of review is necessary.

The analogy drawn by the per curiam footnote 4 seems to limp as the pedagogues say. A remand for a new trial in a criminal case is hortatory. We remand for further proceedings left mainly to the prosecutor. Anything appropriate can happen. We do not ordinarily scratch out an

elaborate scenario for the edification of the lower court where counsel for the parties have not identified such post-appellate proceedings as authorized and appropriate.

I would reverse.

/s/ Michael J. Kelly