

STATE OF MICHIGAN  
COURT OF APPEALS

---

JERRY ACCETURO and KAREN L. PAIGE,

Plaintiffs/Counterdefendants-  
Appellants/Cross-Appellees,

v

CHRIS NORDMAN,

Defendant/Counterplaintiff-  
Appellee/Cross-Appellant.

---

UNPUBLISHED

November 17, 2000

No. 212732

Oakland Circuit Court

LC No. 96-534707-CK

Before: Hoekstra, P.J., and Cavanagh and White, JJ.

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

I join in the majority opinion with respect to the appeal. I dissent from the disposition of the cross-appeal. I would remand with instructions to consider the question of mediation sanctions in accordance with MCR 2.403(O)(5).

At the beginning of trial, defendant conceded that he could not assert a lien based on the costs of the contract extras, and the trial court granted plaintiffs relief on their claim for discharge of the lien. That relief was embodied in a partial judgment entered two months later. I do not agree with the majority that this relief was not part of the “verdict” as defined by MCR 2.403(O)(2), and conclude that the trial court did not err in considering this aspect of the total relief granted in the case when considering mediation sanctions. However, the trial court should have considered defendant’s request for mediation sanctions under MCR 2.403(O)(5). Under that section, the court was obliged to take into consideration that plaintiffs secured a discharge of the lien without regard to whether they owed defendant money, but were also required to pay defendant over \$42,000, and then determine whether the total verdict was less favorable to plaintiffs than the mediation evaluation, and whether it is fair to award costs under all the circumstances. Rather than remand with instructions to calculate and impose sanctions, I would remand for reconsideration of the mediation sanctions issue under MCR 2.403(O)(5).

/s/ Helene N. White