

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN B. MICHLIN and LASERLAND,

Plaintiffs-Appellants,

v

PATRICIA BLOVET,

Defendant-Appellee.

UNPUBLISHED

April 27, 2001

No. 210861

Oakland Circuit Court

LC No. 97-536699-NO

AFTER REMAND

Before: Hood, P.J., and Gage and Whitbeck, JJ.

GAGE, J. (dissenting).

I respectfully dissent from the majority's determination that this case should be remanded once again for further explanation by the trial judge regarding his decision to award plaintiffs zero damages.

After reviewing the transcript of the trial court hearing and the court's two opinions concerning damages, I am not left with a definite and firm conviction that the trial judge erred in finding that plaintiffs suffered no damages. *Meek v Dep't of Transportation*, 240 Mich App 105, 121; 610 NW2d 250 (2000); *Walters v Snyder*, 239 Mich App 453, 456; 608 NW2d 97 (2000). I find it abundantly clear that the trial court was aware of and considered all evidence of damages that plaintiffs presented. Furthermore, I find it sufficiently plain from the learned trial judge's opinions and remarks on the record that he viewed plaintiffs' evidence of damages, including plaintiff Michlin's testimony and the accompanying documentation, totally incredible and unreliable. The sole reason the testimony and documentation remained unchallenged before the trial court was defendant's lack of counsel.¹ I find the trial judge's explanations that he "found that Plaintiff Michlin lacked credibility in his testimony regarding damages, and, that on the whole, his evidence regarding damages was weak" adequately descriptive to support the denial of any damages, *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995), and would defer to the trial judge's opportunity to assess Michlin's credibility. *In re Forfeiture of \$19,250*, 209 Mich App 20, 29; 530 NW2d 759 (1995).

¹ As we noted in our previous opinion, Michlin's testimony occurred "in response to a series of extraordinarily leading questions posed by plaintiffs' counsel." *Michlin v Blovet*, unpublished opinion per curiam of the Court of Appeals (Docket No. 210861, issued 6/13/00), slip op at 2, n 2.

I believe that a second remand is unnecessary and would constitute a waste of judicial resources because further explanation or findings by the trial judge are not required to facilitate appellate review, *Triple E Produce Corp, supra* at 177, and therefore would affirm.

/s/ Hilda R. Gage