S T A T E O F M I C H I G A N

COURT OF APPEALS

BAGLEY ACQUISITION CORP.,

Plaintiff-Appellant,

v

HOMRICH WRECKING, INC., d/b/a HOMRICH INC.,

Defendant-Appellee,

and

AUTO CLUB GROUP, CITY OF DETROIT, DETROIT ECONOMIC GROWTH CORP., and STATE OF MICHIGAN,

Defendants.

UNPUBLISHED
February 19, 2009

No. 279681
Wayne Circuit Court
LC No. 05-523726-CZ

BAGLEY ACQUISITION CORP.,

Plaintiff-Appellant,

v

HOMRICH WRECKING, INC., d/b/a HOMRICH INC.,

Defendant-Appellee.

and

AUTO CLUB GROUP, CITY OF DETROIT, DETROIT ECONOMIC GROWTH CORP., and STATE OF MICHIGAN,

Defendants.

No. 281037
Wayne Circuit Court
LC No. 05-523726-CZ

Before: Talbot, P.J., and Bandstra and Gleicher, JJ.

PER CURIAM.

Plaintiff Bagley Acquisition Corp. ("Bagley") appeals as of right the trial court's orders granting summary disposition and case evaluation sanctions to defendant Homrich Wrecking, Inc. and denying plaintiff's motion for amendment of judgment or for a new trial following a jury verdict of no cause of action. We affirm.

This action arises from fire and other damage to a vacant five-story office building, known as the 139 Bagley Building, owned by plaintiff in the City of Detroit. The 139 Bagley Building is adjacent to, and abuts in part, the former Statler-Hilton Hotel, which was being demolished by defendant at the time of the fire. Plaintiff asserts that defendant's demolition activities caused the fire and other damage to the 139 Bagley Building. Following a trial, the jury determined that defendant had been negligent but that its negligence did not proximately cause the claimed damage to plaintiff's building. Further, following trial, plaintiff was ordered to pay attorneys fees under the case evaluation sanctions provisions of the court rules.

On appeal, plaintiff asserts that the trial court abused its discretion by denying its motion for a new trial because the jury's verdict that defendant's negligence did not proximately cause damage to the 139 Bagley Building was against the great weight of the evidence. We disagree.

A new trial may be granted when "[a] verdict or decision [is] against the great weight of the evidence or contrary to law." MCR 2.611(A)(1)(e); *Domako v Rowe*, 184 Mich App 137, 144; 457 NW2d 107 (1990), aff'd 438 Mich 347; 475 NW2d 30 (1991). However, such a motion should be granted only where "the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand." *Shuler v Michigan Physicians Mut Liability Co*, 260 Mich App 492, 518; 679 NW2d 106 (2004); *Campbell v Sullins*, 257 Mich App 179, 193; 667 NW2d 887 (2003). Stated differently, "[w]hen a party claims that a jury verdict is against the great weight of the evidence, this Court may overturn the verdict only when it is manifestly against the clear weight of the evidence." *Wiley v Henry Ford Cottage Hosp*, 257 Mich App 488, 498; 668 NW2d 402 (2003). The issue usually involves matters of credibility or circumstantial evidence, *In re Robinson*, 180 Mich App 454, 463; 447 NW2d 765 (1989), but if there is conflicting evidence, the question of credibility ordinarily should be left for the jury, *Shuler*, *supra* at 519. Similarly, the weight to be given to expert testimony is also for the jury to decide. *Guerrero v Smith*, 280 Mich App 647, 669; ___ NW2d ___ (2008). The trial court cannot substitute its judgment for that of the fact-finder; thus, a jury's verdict should not be set aside if there is competent evidence to support it. *Wiley*, *supra* at 498; *Ellsworth v Hotel Corp of America*, 236 Mich App 185, 194; 600 NW2d 129 (1999).

This Court reviews a trial court's decision on a motion for a new trial on the basis that the verdict was against the great weight of the evidence for an abuse of discretion. *Gilbert v DaimlerChrysler Corp*, 470 Mich 749, 761-762; 685 NW2d 391 (2004); *Campbell*, *supra*. An abuse of discretion occurs when a trial court's decision is outside the range of reasonable and principled outcomes. *Smith v Khouri*, 481 Mich 519, 525; 751 NW2d 472 (2008); *Barnett v Hidalgo*, 478 Mich 151, 158; 732 NW2d 472 (2007); *Maldanado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). Because the trial court had the opportunity to hear the

witnesses and view the evidence, this Court gives a trial court's determination that a verdict is not against the great weight of the evidence substantial deference. *Morinelli v Provident Life & Accident Co*, 242 Mich App 255, 261; 617 NW2d 777 (2000); *Arrington v Detroit Osteopathic Hosp (On Remand)*, 196 Mich App 544, 560; 493 NW2d 492 (1992); *In re Leone Estate*, 168 Mich App 321, 324; 423 NW2d 652 (1988); *Kochoian v Allstate Ins Co*, 168 Mich App 1, 11; 423 NW2d 913 (1988).

Having reviewed the record, we conclude that the trial court did not abuse its discretion by denying plaintiff's motion for a new trial. Certainly, plaintiff presented evidence, in the form of eyewitness testimony and circumstantial evidence, that defendant was cutting steel with torches on the day of the fire, together with expert testimony that sparks and molten slag from torch cutting was likely the cause of the fire at the 139 Bagley Building. However, plaintiff's expert acknowledged that if it was determined that no torch cutting took place on the day of the fire, he would conclude that the cause of the fire was undetermined and defendant presented competent evidence, which was sufficient, if credited, to permit the jury to conclude that no torch cutting took place that day. The jury's determination centered on an evaluation of the credibility of the witnesses and the proper weight to be afforded to the evidence presented, including the expert testimony. There being competent evidence to support the jury's verdict, the trial court properly declined to set it aside. *Guerrero*, *supra*; *Shuler*, *supra*; *Wiley*, *supra* at 498; *Ellsworth*, *supra*.[1]

Plaintiff asserts that the trial court abused its discretion in admitting certain evidence at trial. This Court reviews a trial court's decision to admit evidence for an abuse of discretion. *Elezovic v Ford Motor Co*, 472 Mich 408, 419; 697 NW2d 851 (2005); *Chmielewski v Xermac, Inc*, 457 Mich 593, 613-614; 580 NW2d 817 (1998); *Silberstein v Pro-Golf of America, Inc*, 278 Mich App 446, 460; 750 NW2d 615 (2008). An abuse of discretion occurs when a trial court's decision is outside the range of principled outcomes. *Smith*, *supra*; *Barnett*, *supra*; *Maldanado*, *supra*. A decision on a close evidentiary question ordinarily cannot be an abuse of discretion, *Morales v State Farm Mutual Automobile Ins Co*, 279 Mich App 720, 729; ___ NW2d ___ (2008), quoting *Lewis v LeGrow*, 258 Mich App 175, 211; 670 NW2d 675 (2003), but an abuse of discretion can arise when the court admits evidence that is inadmissible as a matter of law, *Craig v Oakwood Hosp*, 471 Mich 67, 76; 684 NW2d 296 (2004).

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[1] Plaintiff also asserts that the jury's failure to award damages to compensate it for damage to the 139 Bagley Building caused by defendant's admitted dropping of a steel beam that struck the building, undermines the jury's verdict. However, it was clear throughout the trial that plaintiff sought to recover the $1.47 million paid by AAA as a result of the fire damage to the building; it did not seek to recover for damages predating the fire. During its opening statement, plaintiff specifically advised the jury that sums paid by AAA to compensate plaintiff for damages predating the fire were not "part of the [$]1.47 million that is at issue in this lawsuit." Plaintiff presented no evidence of the cost to repair the damages caused by the beam, instead focusing on the extensive repairs necessitated by the fire and on the amount paid by AAA to settle plaintiff's claims against it for repair of the fire damage. Therefore, the jury's failure to compensate plaintiff for this damage in no way undermines its determination that defendant's negligence was not the proximate cause of the fire, and reversal is not warranted on this basis.

Plaintiff first argues that the trial court abused its discretion by permitting defendant's project manager to offer hearsay testimony that he interviewed certain employees and based on those conversations he concluded that there was no torch cutting occurring on the day of the fire, and further, that this witness lacked sufficient personal knowledge to testify that defendant was not doing any torch cutting on the day of the fire.[2] While defendant's project manager did not explicitly testify to any out of court statements made by defendant's employees, we agree with plaintiff that the project manager's testimony was in the nature of hearsay. However, we conclude that any error in its admission was harmless, because the testimony was cumulative to other competent evidence offered by defendant that no cutting was occurring on the day of the fire. Where hearsay statements are merely cumulative of properly admitted evidence, there is no basis to conclude that admission of these statements affected the outcome of a trial. *Solomon v Shuell*, 435 Mich 104, 147; 457 NW2d 669 (1990). Additionally, plaintiff effectively cross-examined defendant's project manager on this point, emphasizing that he spoke to only 7 of the 12 employees qualified to perform torch cutting at the site and suggesting that the reason he did not speak to the other five employees was because he did not want to know whether they were using cutting torches around the time of the fire. Thus, the challenged testimony was effectively discredited, further rendering its admission harmless. See, e.g., *Cornforth v Borman's Inc*, 148 Mich App 469, 484; 385 NW2d 645 (1986).

Additionally, the basis for the witness's conclusion that there was no torch cutting on the day of the fire was not merely his interviews with employees; he also relied on his personal knowledge of the methods of demolition employed, as well as his observations and his notes of operations at the site on May 4th and 5th. Therefore, he demonstrated sufficient personal knowledge, as required by MRE 602, to permit him to testify as to defendant's demolition activities on those dates. Reversal is thus likewise not warranted on this basis.

Plaintiff also argues that the trial court abused its discretion by permitting disclosure of the terms of a settlement agreement between AAA and plaintiff during cross-examination of AAA witnesses.[3] We disagree. The credibility of witnesses is a material issue and evidence that

[2] Defendant asserts that plaintiff's objection below was not based on hearsay, and therefore, that plaintiff cannot raise a hearsay objection on appeal. However, while plaintiff's motion in limine to exclude this testimony may have been based on a ground other than hearsay, plaintiff did raise a hearsay objection at trial and the trial court ruled on the objection before the witness testified.

[3] At the time of the fire, AAA held a leasehold interest in the 139 Bagley Building pursuant to a 99-year lease entered into in 1916, which required AAA to repair any and all damage to the building, including fire damage, during the term of its tenancy. AAA and plaintiff agreed to settle plaintiff's claims against AAA under the lease for an amount approximating $1.9 million, of which $129,251 was apportioned by plaintiff and AAA to the buy out of the remainder of the lease term, $300,000 was apportioned to compensate for pre-fire damage to the building and the remaining $1.47 million was apportioned to compensate plaintiff for the fire damage to the building. As part of the settlement, AAA assigned its claims against defendant, previously asserted by way of cross-claim, to plaintiff. The only claim tried to the jury was AAA's negligence claim, assigned to plaintiff, by which plaintiff sought to recover the $1.47 million paid by AAA to compensate plaintiff for fire damage to the building.

shows bias or prejudice of a witness is always relevant. *Lewis*, *supra* at 211; *Powell v St John Hosp*, 241 Mich App 64, 72; 614 NW2d 666 (2000). Thus, this Court has upheld the admission of terms of a settlement agreement to cross-examine a witness in order to show that the witness has an interest in the outcome of litigation, see, e.g., *Reno v Heineman*, 56 Mich App 509, 513-514; 224 NW2d 687 (2000). Because AAA retained a direct pecuniary interest in the outcome of the litigation assumed by plaintiff against defendant, disclosure of the terms of the settlement agreement in the limited manner permitted by the trial court was necessary to allow the jury to properly assess the AAA witnesses' bias and interest in the matter, so as to evaluate their credibility.

Plaintiff next argues that the trial court erred by granting defendant summary disposition of plaintiff's trespass claim. We disagree. This Court reviews a trial court's decision on a motion for summary disposition de novo. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003); *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998); *Rice v Auto Club Ins Ass'n*, 252 Mich App 25, 30; 651 NW2d 188 (2002). "A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint." *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999). In evaluating such a motion, a court considers the entire record in the light most favorable to the party opposing the motion, including affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. *Corley v Detroit Board of Educ*, 470 Mich 274, 278; 681 NW2d 342 (2004).

Plaintiff argues that to state a viable claim for trespass it was required to establish that defendant engaged in an intentional act that resulted, intentionally or otherwise, in some intrusion onto or into the 139 Bagley Building. However, as this Court explained in *Terlecki v Stewart*, 278 Mich App 644, 653-654; 754 NW2d 899 (2008):

> In Michigan, recovery for trespass to land is available only upon proof of an unauthorized direct or immediate intrusion of a physical, tangible object onto land over which the plaintiff has a right of exclusive possession. *Moreover, the intrusion must be intentional*. If the intrusion was due to an accident caused by negligence or an abnormally dangerous condition, an action for trespass is not proper. [Citations and internal quotation marks omitted, emphasis added.]

Accord, *Cloverleaf Car Co v Phillips Petroleum Co*, 213 Mich App 186, 195; 540 NW2d 297 (1995) ("A trespass is an unauthorized invasion upon the private property of another. However, the actor must intend to intrude on the property of another without authorization to do so. If the intrusion was due to an accident caused by negligence or an abnormally dangerous condition, an action for trespass is not proper."). Thus, plaintiff was required to show that any alleged trespass – and not merely the act resulting in the intrusion – was itself intentional. There is no evidence whatsoever that defendant intended to trespass onto plaintiff's property. Therefore, the trial court did not err in dismissing plaintiff's trespass claims.

Even were this Court to conclude otherwise, however, any error by the trial court in summarily disposing of the trespass claim was rendered harmless by the jury's determination that Hormich's conduct was not the proximate cause of the fire. As a result of this

determination, plaintiff cannot establish that the jury's verdict would have been any different had they been permitted to consider the trespass claim. Consequently, reversal is not warranted. MCR 2.613(A).

Plaintiff argues that the trial court erred by declining to instruct the jury on the doctrine of res ipsa loquitur, necessitating reversal of the jury's verdict. We disagree.

This Court reviews claims of instructional error de novo. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000). However, the failure to give a properly requested, applicable and accurate instruction does not require reversal unless the failure to vacate the jury verdict would be inconsistent with substantial justice. *Johnson v Corbet*, 423 Mich 304, 327; 377 NW2d 713 (1985); *Pontiac School District v Miller, Canfield, Paddock & Stone*, 221 Mich App 602, 622; 563 NW2d 693 (1997). Whether the doctrine of res ipsa loquitur applies to a particular case is a question of law, *Jones v Porretta*, 428 Mich 132, 154 n 8; 405 NW2d 863 (1987), which this Court also reviews de novo, *Ross v Auto Club Group*, 481 Mich 1, 7; 748 NW2d 552 (2008).

The doctrine of res ipsa loquitur "entitles a plaintiff to a permissible inference of negligence from circumstantial evidence." *Jones*, *supra* at 155-156. Once a plaintiff establishes an inference of negligence, a defendant may attempt to explain away or avoid the inference. *Neal v Friendship Manor Nursing Home*, 113 Mich App 759, 765; 318 NW2d 594 (1982). The question whether the inference has been successfully avoided requires a weighing of the proofs and belongs to the trier of fact. *Id.* As this Court explained in *Cloverleaf*, *supra* at 193, "[t]he major purpose of the doctrine of res ipsa loquitur is to create at least an inference of negligence where the plaintiff is unable to prove the occurrence of a negligent act." Here, plaintiff proved the occurrence of negligent act(s) by defendant; the jury concluded that defendant was in fact negligent in the conduct of its demolition activities at the Statler-Hilton. Thereafter, however, the jury concluded that defendant's negligence did not proximately cause the fire. A res ipsa loquitur instruction would not have obviated plaintiff's ultimate burden of establishing causation.[4] Thus, even if the trial court erred by declining to give the instruction, that error was necessarily harmless.

Even were this not the case, however, we would conclude that the trial court did not err by declining to give the res ipsa loquitur instruction. As this Court explained in *Cloverleaf*, *supra* at 193:

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[4] By way of illustration, we note that Michigan Civil Jury Instruction 30.05 provides "[i]f you find that the defendant had control over . . . instrumentality which caused the plaintiff's injury, and that the plaintiff's injury is of a kind which does not ordinarily occur without someone's negligence, then you may infer that the defendant was negligent. However, you should weigh all of the evidence in this case in determining whether the defendant was negligent *and whether that negligence was a proximate cause of plaintiff's injury*." M Civ JI 30.05 (emphasis added). See, also *Zdrojewski v Murphy*, 254 Mich App 50, 55 n 1; 657 NW2d 721 (2002).

> To avail [itself] of the doctrine [of res ipsa loquitur], plaintiff[] must show that (1) the event would ordinarily not occur in the absence of negligence, (2) it must be caused by an agency or instrumentality within the exclusive control of the defendant, and (3) it must not have been due to any voluntary action or contribution on the part of the plaintiff. [Citing *Jones*, *supra* at 150-151.]

In addition, to warrant the instruction, the evidence of the true explanation of the event must be more readily accessible to the defendant than to the plaintiff. *Id.*, quoting *Jones*, *supra* at 151. Stated a bit differently, "'[r]es ipsa loquitur' is the "[r]ebuttable presumption or inference that defendant was negligent, which arises upon proof that the instrumentality causing injury was in defendant's exclusive control, and that the accident was one which ordinarily does not happen in absence of negligence." *Woodard v Custer*, 473 Mich 1, 6 n 2; 702 NW2d 522 (2005), quoting Black's Law Dictionary (6th ed); see, also, *Jones*, *supra* at 150-151.

Here, the trial court determined that plaintiff had not established that the instrumentality that caused the fire was within defendant's exclusive control. Plaintiff presented testimony that, if credited, would have established that defendant's actions caused the fire. However, it cannot reasonably be said that defendant's actions were the only possible cause of the fire. Plaintiff's expert conceded that, if it was determined that defendant was not using cutting torches on the day of the fire, he would conclude that the cause of the fire was undetermined. In such case, plaintiff necessarily would have failed to establish the instrumentality causing its injury, and therefore, failed to establish that that instrumentality was within defendant's exclusive control. Defendant presented evidence sufficient to permit the jury to conclude that it was not using cutting torches on the day of the fire. Therefore, the trial court did not err in determining that plaintiff had not established that the instrumentality causing its injury was exclusively within the control of defendant. Plaintiff's argument otherwise fails to recognize that the jury rejected its assertion that sparks and molten slag from defendant's demolition operations caused the fire, or that the jury was permitted to reach this conclusion considering the evidence presented. This case is thus unlike a case, such as when a surgical instrument is left inside a patient, where there is no dispute about the cause of the injury, and thus, the plaintiff could establish that the instrumentality was within the exclusive control of the defendant(s) at the pertinent time. Plaintiff here failed to establish the necessary circumstances to warrant a res ipsa loquitur instruction. Therefore, the trial court's refusal to give the instruction was not erroneous.

Plaintiff further alleges error in the trial court's jury instructions on damages, as well as in the admission of certain evidence relating to the determination of the market value of the property both before and after the fire. However, we need not address these assertions of error, because the jury, having determined that there was no proximate cause between defendant's negligence and the fire, appropriately did not reach the issue of damages. Therefore, plaintiff's arguments regarding the manner in which the jury was instructed as to the determination of damages and the evidence introduced regarding damages are moot.

Finally, plaintiff argues that the trial court's award of case evaluation sanctions to defendant should be vacated because the trial court awarded defendant attorney fees based on its determination of a reasonable hourly rate, rather than based on the actual attorney fees incurred. We disagree.

This Court reviews the trial court's determination of the rate for attorney fees to include in a case evaluation sanction award for an abuse of discretion. *Smith, supra* at 525; *Zdrojewski v Murphy*, 254 Mich App 50, 72-73; 657 NW2d 721 (2002); *Elia v Hazen*, 242 Mich App 374, 377; 619 NW2d 1 (2000); see also, *Wood v Detroit Automobile Inter-Ins Exch*, 413 Mich 573, 588; 321 NW2d 653 (1982). An abuse of discretion occurs when a trial court's decision is outside the range of principled outcomes. *Smith, supra*; *Barnett, supra*; *Maldanado, supra*.

MCR 2.403(O) provides in relevant part:

> (1) If a party has rejected an evaluation and the action proceeds to verdict, that party must pay the opposing party's actual costs unless the verdict is more favorable to the rejecting party than the case evaluation. . . .
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> * * *
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> (6) For the purposes of this rule, actual costs are
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> (a) those costs taxable in any civil action, and
>
> (b) *a reasonable attorney fee based on a reasonable hourly or daily rate as determined by the trial judge* for services necessitated by the rejection of the case evaluation. [Emphasis added.]

Plainly, MCR 2.403(O) does not require that the court award actual attorney fees or fees based on the actual hourly rate charged by the prevailing party's counsel. *Cleary v Turning Point*, 203 Mich App 208, 212; 512 NW2d 9 (1993)("Nothing in the language of MCR 2.403(O) requires a trial court to find that reasonable fees are equivalent to actual fees"); *Troyanowski v Village of Kent City*, 175 Mich App 217, 227; 437 NW2d 266 (1988). That is, "[r]easonable fees are not equivalent to actual fees charged." *Smith, supra* at 528 n 12, quoting *Zdrojewski, supra* at 72. MCR 2.403(O)(b)(6) specifies a "*reasonable* attorney fee based on a *reasonable* hourly rate . . ." to be "determined by the trial judge . . ." MCR 2.403(O)(6)(b) (emphasis added); *Young v Nandi*, 276 Mich App 67, 88; 740 NW2d 508 (2007).

As our Supreme Court explained in *Smith*, *supra* at 530-531, when determining a reasonable fee, "a trial court should begin its analysis by determining the fee customarily charged in the locality for similar legal services," using "reliable surveys or other credible evidence" of the legal market. This number, representing a reasonable hourly rate, should then be "multiplied by the reasonable number of hours expended in the case," with the resulting number serving "as the starting point for calculating a reasonable attorney fee." Thereafter, the trial court should consider the factors set forth in MRPC 1.5(a) and in *Wood*, *supra* at 588, "to determine whether an up or down adjustment is appropriate." These factors include the professional standing, experience, reputation, and ability of the lawyer or lawyers performing the services; the fee customarily charged in the locality for similar legal services; the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the amount in question and the results achieved; the difficulty of the case; the expenses incurred; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client and the likelihood, if

apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; and whether the fee is fixed or contingent, *Id.* at 539-530.

In the instant case, the number of hours is not contested; the only issue is whether the rates determined by the trial judge are reasonable. As our Supreme Court further instructed in *Smith*, *supra* at 531-532:

> [t]he reasonable hourly rate represents the fee customarily charged in the locality for similar legal services, which is reflected by the market rate for the attorney's work. The market rate is the rate that lawyers of similar ability and experience in the community normally charge their paying clients for the type of work in question. We emphasize that the burden is on the fee applicant to produce satisfactory evidence - in addition to the attorney's own affidavits - that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation. The fees customarily charged in the locality for similar legal services can be established by testimony or empirical data found in surveys and other reliable reports.

Defendant requested $300 per hour for the senior partner who served as its lead counsel and $200 per hour for his associate. Defendant presented the trial court with the senior partner's resume and with a copy of the 2003 State Bar of Michigan statistics of the Economics of Law Practice in support of its request, which provided the trial judge with data regarding the average billing rates for lawyers similarly situated to defendant's counsel. Considering this data, we conclude that the trial judge's determination that hourly rates of $250 per hour and $150 per hour were reasonable for purposes of determining the appropriate attorney fee under MCR 2.403(O) was not outside the range of principled outcomes so as to constitute an abuse of discretion, especially when considering the amount at issue and the results achieved.

We affirm. Defendant, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Michael J. Talbot
/s/ Richard A. Bandstra
/s/ Elizabeth L. Gleicher