

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN RAAB and AMBER RAAB,

Plaintiffs-Appellants/Cross-
Appellees,

v

RIVER RIDGE-SALINE, LLC,

Defendant-Appellee/Cross-
Appellant.

UNPUBLISHED

May 12, 2009

No. 280335

Washtenaw Circuit Court

LC No. 05-000326-CE

Before: Bandstra, P.J., and Whitbeck and Shapiro, JJ.

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

I concur in the affirmance of the trial court's denial of defendant's motion for summary disposition seeking dismissal of plaintiff's case. I respectfully dissent from the majority's affirmance of the trial court's transfer of the case to the district court based upon its finding that plaintiff's damages do not exceed \$25,000.

The majority relies on Administrative Order 1998-1 as the basis for the transfer to district court. That Administrative Order provides for transfer only where the circuit court finds "to a legal certainty" that the amount in controversy is not greater than the district court's jurisdictional limit. Further, that demanding determination must be made based on the allegations in the complaint. *Etefia v Credit Tech*, 245 Mich App 466, 475; 628 NW2d 577 (2001). The instant case involves claims of nuisance, wrongful eviction and negligence and seeks both economic and non-economic damages. While the proofs attached to the summary disposition motion and response do not appear to provide a basis for economic damages in excess of the district court's jurisdictional limit, non-economic damages by their nature "cannot be proved in a precise dollar amount" and "the law leaves such amount to [the] sound judgment [of a jury]." SJ12d 50.01. Accordingly, I conclude that this is not a case under which transfer to the district court can be made under AO 1998-1.

/s/ Douglas B. Shapiro