

STATE OF MICHIGAN
COURT OF APPEALS

DARLENE M. STARIHA,

Plaintiff-Appellant,

v

CHRYSLER GROUP, L.L.C., f/k/a
DAIMLERCHRYSLER CORPORATION,

Defendant-Appellee.

UNPUBLISHED
June 28, 2012

No. 301238
Oakland Circuit Court
LC No. 2008-094601-NZ

Before: WHITBECK, P.J., and JANSEN and K. F. KELLY, JJ.

WHITBECK, P.J. (*concurring in part and dissenting in part*).

I agree with the majority that the trial court did not abuse its discretion in awarding plaintiff's counsel a \$2,000 attorney fee. I also agree that the trial court did not clearly err in holding that attorney-client privilege was inapplicable. And I agree that there is no evidence that the trial court relied on defendant's good faith when assessing reasonable attorney fees. Further, on the basis of the record, I am also not left with a definite and firm conviction¹ that that the trial court erred in concluding that plaintiff's counsel did not fully convey the terms of the offer to plaintiff, since her testimony indicated both a lack of knowledge about the content of the offer and the reasons for rejection. Similarly, on the basis of the record, I am also not left with a definite and firm conviction that the trial court erred in concluding that plaintiff would have accepted the initial offer "had she fully understood its terms."

With that said, I write separately because I disagree with the majority's acceptance of the trial court's statement that plaintiff's counsel "*concealed* the real reason she was advising against its acceptance."² Although plaintiff's testimony did indicate a lack of knowledge about the content of the offer and the reasons for rejection, on the basis of my review of the record, I believe that the record is completely lacking in evidentiary support³ for the trial court's finding that plaintiff's counsel actively concealed information from her client regarding the reason for

¹ *Peters v Gunnell, Inc*, 253 Mich App 211, 221; 655 NW2d 582 (2002).

² Emphasis added.

³ *Hill v City of Warren*, 276 Mich App 299, 308; 740 NW2d 706 (2007).

rejecting the initial settlement offer. Absent clear evidence on the record, I am not willing to impute such misconduct to plaintiff's counsel.

/s/ William C. Whitbeck