

STATE OF MICHIGAN
COURT OF APPEALS

COLE VANCE KENNEDY,

Plaintiff/Counter-Defendant-
Appellant,

v

GEORGE THOMAS FRAZEE,

Defendant/Counter-Plaintiff-
Appellee.

UNPUBLISHED
June 21, 2012

No. 304763
Ottawa Circuit Court
LC No. 10-001810-CZ

Before: DONOFRIO, P.J., and MARKEY and OWENS, JJ.

MEMORANDUM.

Plaintiff appeals by right the trial court's judgment entered following a bench trial granting possession of a truck and several food trailers to defendant. In this case of competing claims of breach of contract and fraud, the trial court based its verdict on alternate independent grounds: (1) the trial court found that the terms of the contract between the parties entitled defendant to possession of the property, and (2) the doctrine of judicial estoppel precluded plaintiff from disputing the terms of the contract in light of his testimony in a Florida proceeding. On appeal, plaintiff does not discuss or dispute the trial court's application of judicial estoppel. "When an appellant fails to dispute the basis of the trial court's ruling, 'this Court . . . need not even consider granting plaintiffs the relief they seek.'" *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004)(citation omitted).

We affirm. As the prevailing party, defendant may tax costs under MCR 7.219.

/s/ Pat M. Donofrio
/s/ Jane E. Markey
/s/ Donald S. Owens