

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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BRENT JOHNSON, as Personal Representative of  
the Estate of MICHELLE JOHNSON, and LINDA  
JOHNSON,

Plaintiffs,

v

LAWRENCE HEITE, DETROIT EDISON,  
VERNA'S TAVERN, INC., ANDREW LEE  
ERVING, TIMDAN, INC., and FORD MOTOR  
COMPANY,

Defendants,

and

VERNA'S TAVERN, INC.,

Cross-Plaintiff-Appellant,

v

LAWRENCE HEITE and DETROIT EDISON,

Cross-Defendants-Appellees.

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DONALD E. DUNN, as Personal Representative  
of the Estate of DAVID E. DUNN, NANCY J.  
DUNN, and TINA ZUBOR,

Plaintiffs,

v

LAWRENCE HEITE, VERNAS TAVERN, INC.,  
ANDREW LEE ERVING, DETROIT EDISON

FOR PUBLICATION  
December 15, 2000  
9:00 a.m.

No. 212011  
Wayne Circuit Court  
LC No. 95-536225 NI

No. 212029  
Wayne Circuit Court  
LC No. 95-536228 NI

COMPANY, TIMDAN, INC., and FORD MOTOR  
COMPANY,

Defendants,

and

VERNA'S TAVERN, INC.,

Cross-Plaintiff-Appellant,

v

Updated Copy  
February 2, 2001

LAWRENCE HEITE and DETROIT EDISON  
COMPANY,

Cross-Defendants-Appellees.

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

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

I agree with the lead opinion's analysis and conclusion that a judgment enforcing a mediation award does not satisfy the dramshop act's prerequisites for indemnification. MCL 436.22; MSA 18.993.

I respectfully dissent from the lead opinion's conclusion that *Hoover Corners, Inc v Conklin*, 230 Mich App 567; 584 NW2d 385 (1998), requires that we remand the instant case to permit Verna's Tavern the opportunity to demonstrate its liability and establish its right to indemnification. I endorse the majority's expressed view that "a claim for indemnification under MCL 436.22(7); MSA 18.993(7) cannot survive a settlement," *ante* at \_\_\_\_, and thus, like the majority, I fail to comprehend the necessity or nature of a proceeding on remand. Unlike the majority, however, I do not view *Hoover Corners'* penultimate sentence reflecting the panel's choice of procedural disposition as essential or necessarily involved in determining the legal

issues the *Hoover Corners* parties raised. *People v Kevorkian*, 205 Mich App 180, 190, n 6; 517 NW2d 293 (1994). Accordingly, I do not believe *Hoover Corners* demands the unnecessary remand.

I would affirm.

/s/ Hilda R. Gage