

STATE OF MICHIGAN  
COURT OF APPEALS

---

KIMBERLY POWELL,

Plaintiff-Appellee,

v

ANDERSON HICKEY COMPANY, INC.,

Defendant-Appellant.

---

UNPUBLISHED  
December 6, 1996

No. 179325  
LC No. 90-387780

Before: Holbrook, Jr., P.J., and Taylor and W.J. Nykamp,\* JJ.

HOLBROOK, Jr., P.J., *dissenting*.

I dissent. Evidentiary and instructional errors at trial are not grounds for granting a new trial or setting aside a jury verdict unless the refusal to take such action appears to this Court to be inconsistent with substantial justice. MCR 2.613(A); *Houston v Grand Trunk Western R. Co*, 159 Mich App 602, 609-610; 407 NW2d 52 (1987). The errors at the trial in this matter did not deprive defendant of a fair trial. Accordingly, I would affirm the jury's verdict.

/s/ Donald E. Holbrook, Jr.

---

\* Circuit judge, sitting on the Court of Appeals by assignment.