

STATE OF MICHIGAN
COURT OF APPEALS

PELLERITO FOODS, INC.,

Plaintiff-Appellant,

v

DEBACKER POTATO FARMS, INC.,

Defendant-Appellee.

UNPUBLISHED

December 22, 1998

No. 202868

Wayne Circuit Court

LC No. 95-506191 CK

Before: Doctoroff, P.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order entering a judgment in favor of defendant in the amount of \$68,522.74. We remand for further factual findings regarding the court's disposition of the case, and for an evidentiary hearing regarding the award of attorney fees.

Plaintiff first argues that the trial court failed to make sufficient factual findings, as required by MCR 2.517(A). We agree. The interpretation and application of court rules presents a question of law, which we review de novo. *McAuley v General Motors Corp*, 457 Mich 513, 518; 578 NW2d 282 (1998).

In a bench trial, the court "shall find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment." MCR 2.517(A)(1); *Triple E Produce Corp v Mastronardi Produce Inc*, 209 Mich App 165, 176; 530 NW2d 772 (1995). The trial court's findings of fact are sufficient if they are "brief, definite, and pertinent," if it appears that the trial court was aware of the issues in the case and correctly applied the law, and if appellate review would not be facilitated by requiring further explanation. MCR 2.517(A)(2); *Triple E Produce Corp, supra*, 209 Mich App 176.

A review of the trial court's judgment reveals that the trial court made insufficient findings of fact in this matter. With respect to plaintiff's claims, the trial court stated:

This Court enters judgment for no cause of action upon plaintiff's claim. The Court finds plaintiff's claim that Defendant breached the contract for the sale of potatoes to be without merit. Further Plaintiff's claim that Defendant be held liable to him for attorney

fees and costs for prosecution of his cause of action under an indemnification agreement to be similarly without merit.

With respect to defendant's counterclaim, the trial court stated, "the Court finds in favor of the Defendant, Debacker Potato Farms on its counter-claim. The Court enters judgment for the defendant in the following amounts." The trial court then calculated the amount of the judgment for defendant.

The limited findings of the trial court do not satisfy the requirements of MCR 2.517(A). Although brevity alone is not fatal to a trial court's opinion, *Powell v Collias*, 59 Mich App 709, 714; 229 NW2d 897 (1975), this Court must know "the path taken through the conflicting evidence" to properly perform our reviewing function. *Johnson v Wynn*, 38 Mich App 302, 305; 196 NW2d 313 (1972). Here, the trial court made no mention of the evidence presented at trial. The trial court's opinion was mainly devoted to the issue of damages, and provided us with no insight into how the court resolved the numerous credibility and legal issues presented at trial. Therefore, we remand for additional findings of fact and conclusions of law.

Plaintiff next argues that the trial court erred in failing to hold an evidentiary hearing regarding the award of attorney fees as mediation sanctions. We agree. We review questions of law de novo. *Cardinal Mooney High School v Michigan High School Athletic Assoc*, 437 Mich 75, 80; 467 NW2d 21 (1991).

When a trial court awards attorney fees, it must determine the reasonable amount of attorney fees according to the nonexclusive list of factors set forth in *Wood v DAIIE*, 413 Mich 573, 588; 321 NW2d 653 (1982). *Howard v Canteen Corp*, 192 Mich App 427, 437; 481 NW2d 718 (1992). While a court is not required to detail its findings regarding each factor, the court is required to make findings of fact with regard to an attorney fee issue. *Miller v Meijer Inc*, 219 Mich App 476, 480; 556 NW2d 890 (1996); *Howard, supra*, 192 Mich App 437. Furthermore, where the opposing party challenges the reasonableness of the fee requested, the trial court should inquire into the services actually rendered prior to approving the bills of costs. *B & B Investment Group v Gitler*, 229 Mich App 1, 15-16; 581 NW2d 17 (1998); *Miller, supra*, 219 Mich App 479. "Although a full-blown trial is not necessary, an evidentiary hearing regarding the reasonableness of the fee request is." *B & B Investment Group, supra*, 229 Mich App 1, 15-16; *Miller, supra*, 219 Mich App 479.

In the present case, the trial court erred in failing to conduct an evidentiary hearing regarding the amount of fees and costs taxed to plaintiff. Plaintiff's counsel challenged the amount of fees requested by defendant, and there was clearly a dispute as to whether the fees charged by defendant's trial counsel were excessive. In order to resolve these factual issues, the trial court should have held an evidentiary hearing. Therefore, we remand for an evidentiary hearing to be held within 42 days of our decision in this matter.

We decline to review plaintiff's remaining issues due to the trial court's failure to make adequate factual findings.

Remanded. Jurisdiction is retained.

/s/ Martin M. Doctoroff

/s/ David H. Sawyer

/s/ E. Thomas Fitzgerald