

STATE OF MICHIGAN
COURT OF APPEALS

AUTO-STRASSE, LTD., A Michigan corporation,
f/k/a EITEL S. DAHM, INC.M

UNPUBLISHED
October 3, 2000

Plaintiff-Counterdefendant-Appellee,

v

No. 213287
Washtenaw Circuit Court
LC No. 96-007405-CE

LEE ARCURE and DIANE ARCURE,

Defendant-Counterplaintiffs-
Appellants.

Before: Owens, P.J., and Murphy and White, JJ

WHITE, J. (concurring).

I agree that plaintiff's initial December 1996 motion for mediation sanctions was untimely under the circumstance that plaintiff knew, upon entry of the June 1996 judgment, that it was entitled to mediation sanctions on its complaint because even without an award of costs, defendants, who had rejected mediation, failed to improve upon the mediation award by ten percent. MCR 2.403(O).

Because this Court's decision regarding assessable costs did not revive plaintiff's right to mediation sanctions untimely pursued, I agree that the trial court erred in granting plaintiff's motion for reconsideration.

I also agree with the disposition of the costs issue.

/s/ Helene N. White