STATE OF MICHIGAN

COURT OF APPEALS

KATHLEEN VANATTA,

Plaintiff-Appellant,

v

BENJAMIN J. PAOLUCCI, D.O. and BENJAMIN J. PAOLUCCI, D.O., P.C.,

Defendants-Appellees.

UNPUBLISHED
December 1, 2000

No. 215889
Oakland Circuit Court
LC No. 97-540527-NH

Before: Collins, P.J., and Jansen and Whitbeck, JJ.

PER CURIAM.

The jury determined that plaintiff Kathleen Vanatta had no cause of action against defendants Benjamin J. Paolucci, D.O., and Benjamin J. Paolucci D.O., P.C., and the trial court entered judgment to that effect. Vanatta appeals as of right from the trial court's judgment. We affirm.

I. Procedural History

In 1997, Vanatta filed suit against defendants and Oakland General Hospital Osteopathic (the hospital) alleging malpractice. On the first day of trial, Vanatta informed defendants that she had entered into a settlement agreement with the hospital. Defendants asked the trial court to order Vanatta to disclose the terms of the agreement, but the trial court denied their motion in an October 6, 1998 order. Defendants then filed an application for leave to appeal and moved this Court, pursuant to MCR 7.211(C)(4) and (C)(6), for immediate consideration and peremptory reversal "of the trial court's order denying [defendants] access to the amount and terms of the settlement agreement entered into between plaintiff and [defendant hospital]." On October 12, 1998, this Court granted defendants' motions and peremptorily reversed the trial court's October 6, 1998 order. This Court ordered the trial court to "immediately allow defendants to disclose to the jury subject to the parties' non-disclosure agreement, the terms of plaintiff's agreement with the other defendants." This Court did not retain jurisdiction. After this Court issued its order, defendants informed the jury of the terms of the settlement agreement. On October 13, 1998, the jury returned a verdict of no cause of action. On November 2, 1998, the trial court entered a judgment of no cause of action pursuant to the jury verdict.

After the trial court entered the judgment of no cause of action, Vanatta filed an application for leave to appeal in the Michigan Supreme Court. Vanatta asked the Supreme Court to "reverse the [October 12, 1998] Court of Appeals order and remand this matter to the trial court for a new trial." The Supreme Court, however, denied her application for leave to appeal.

Vanatta filed the present appeal in this Court on November 19, 1998. The only issue Vanatta raises in this appeal is whether it was error requiring reversal for defendants to reveal to the jury the terms of the settlement agreement between her and the hospital.

II. The Law Of The Case Doctrine

The law of the case doctrine mandates that "a court may not decide a legal question differently where the facts remain materially the same."[1] Under the doctrine, an appellate court ruling on a particular issue "binds the appellate court and all lower tribunals with regard to that issue."[2] The rationale for the law of the case doctrine is "the need for finality of judgment and the want of jurisdiction in an appellate court to modify its own judgments except on rehearing."[3] There are two exceptions to the law of the case doctrine: "(1) when the decision would preclude the independent review of constitutional facts and (2) when there has been an intervening change of law."[4]

In this case, however, there is no evidence that either the facts or the law relevant to this issue have changed since this Court entered its earlier decision. Because "a decision of an appellate court is controlling at all subsequent stages of the litigation as long as it is unaffected by a higher court's opinion," and because neither exception to the law of the case doctrine applies in the present case, we affirm.[5]

Affirmed.

/s/ Jeffrey G. Collins
/s/ Kathleen Jansen
/s/ William C. Whitbeck

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[1] *Webb v Smith (After Second Rem)*, 224 Mich App 203, 209; 568 NW2d 378 (1997).

[2] *MS Development, Inc v Auto Plaza of Woodhaven (After Remand)*, 220 Mich App 540, 548; 560 NW2d 62 (1996).

[3] *Webb*, *supra* at 209-210.

[4] *Id.* at 210.

[5] *McNees v Cedar Springs Stamping (After Remand)*, 219 Mich App 217, 222; 555 NW2d 481 (1996).