

STATE OF MICHIGAN  
COURT OF APPEALS

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FRANK WILLIAMS,

Plaintiff-Appellee,

v

JOSEPH RITTER and STEVEN BARIL,

Defendant-Appellants.

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UNPUBLISHED

June 7, 2002

No. 223192

Cass Circuit Court

LC No. 93-000354-CZ

AFTER REMAND

Before: Neff, P.J., and Doctoroff and Wilder, JJ.

MEMORANDUM.

This case returns to this Court after remand to the trial court. Defendants appealed as of right the trial court's decision denying their request for costs and attorney fees. We remanded for an explanation concerning its denial so we could determine whether the court's decision constituted an abuse of discretion. *McKelvie v Mount Clemens*, 193 Mich App 81, 84; 483 NW2d 442 (1992).

Upon review of the trial court's detailed explanation of its decision, we conclude that the court did not abuse its discretion. The court determined that plaintiff had a viable claim against defendant Ritter, and defendants' contention that the claim was frivolous was without merit. The court also rejected defendants' argument that plaintiff should pay defendants' costs and attorney fees because defendant Ritter had to pay costs to plaintiff. We find no evidence of perversity of will, defiance of judgment, or exercise of passion or bias in the court's decision, *Alken-Ziegler v Waterbury Headers Corp*, 461 Mich 219, 227; 600 NW2d 638 (1999), and conclude that the court properly acted within its discretion when it denied defendants' request for costs and attorney fees.

Affirmed.

/s/ Janet T. Neff

/s/ Martin M. Doctoroff

/s/ Kurtis T. Wilder