STATE OF MICHIGAN

COURT OF APPEALS

MICHAEL MCGEE,

Plaintiff-Appellant,

v

CITY OF DETROIT,

Defendant-Appellee.

UNPUBLISHED
July 30, 2002

No. 225819
Wayne Circuit Court
LC No. 98-809709-NF

MICHAEL MCGEE,

Plaintiff-Appellee,

v

CITY OF DETROIT,

Defendant-Appellant.

No. 225824
Wayne Circuit Court
LC No. 98-809709-NF

Before: White, P.J., and Whitbeck, C.J., and Holbrook, Jr., J.

WHITE, P.J. (*concurring in part and dissenting in part).*

Recognizing that the alleged supervening event in the instant case did not remove plaintiff from the workforce as in *MacDonald v State Farm Mutual Ins Co*, 419 Mich 146; 350 NW2d 233 (1984), and *Luberda v Farm Bureau General Ins Co*, 163 Mich App 457; 415 NW2d 245 (1987), and that this case can be analogized to *Marquis v Hartford Accident & Indemnity (After Remand),* 444 Mich 638; 513 NW2d 799 (1994), where the plaintiff voluntarily quit favored work, I conclude that there was a question of fact whether plaintiff would have earned wages, even after the drug test, were it not for the accident.

I agree that there was a question of fact whether the drug test was valid, and also agree that plaintiff is not entitled to twelve percent interest under MCL 600.6013(5).

Lastly, I do not agree that the trial court erred in denying mediation sanctions. "Verdict" includes a jury verdict and a judgment entered as a result of a ruling on a motion after rejection

of the mediation evaluation. The "verdict" in the instant case was a product of both; in fact, the ruling on the motion played the largest factor in the ultimate "verdict." There is nothing in MCR 2.403(O) to preclude the trial court's approach. The trial court's reasoning was sound and should be affirmed.

/s/ Helene N. White