

STATE OF MICHIGAN  
COURT OF APPEALS

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JENNIFER HUNTER,

Plaintiff-Appellant,

v

OUTBACK STEAKHOUSE OF FLORIDA, INC.,

Defendant-Appellee,

and

ROGER McDANIEL,

Defendant.

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UNPUBLISHED

December 28, 2004

No. 249947

Wayne Circuit Court

LC No. 98-803041-NO

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

PER CURIAM.

Plaintiff appeals as of right an order denying her motion for costs and attorney fees. We affirm. This appeal is being decided without oral argument under MCR 7.214(E).

Plaintiff filed suit against defendants alleging defendants violated the Elliot Larsen Civil Rights Act (ELCRA), MCL 37.2101. After a trial, a jury found that plaintiff was sexually harassed and/or constructively discharged because of her gender, but it awarded no damages. Plaintiff argues that the trial court improperly refused to award her attorney fees and costs under MCL 37.2802, part of the state Civil Rights Act. We disagree. We review a trial court's decision whether to make such an award for an abuse of discretion. *Meyer v Center Line*, 242 Mich App 560, 575; 619 NW2d 182 (2000).

The trial court correctly held that *Meyer* precluded it from awarding plaintiff attorney fees and costs under MCL 37.2802. As part of its dispositive rationale, the *Meyer* panel stated that a party "must be a 'financially successful or prevailing party' to be entitled to an award of fees and costs under MCL 37.2802." *Meyer, supra*, 242 Mich App at 576, quoting *Dresselhouse v Chrysler Corp*, 177 Mich App 470, 483; 442 NW2d 705 (1989). The *Meyer* Court further stated that a plaintiff "must receive at least some relief on the merits of plaintiff's claim, such as an award of damages, an injunction, or a declaratory judgment on a favorable consent decree or settlement" to be considered a prevailing party. *Id.*

Plaintiff is correct that *Meyer* did not provide an all-inclusive list of what would constitute “some relief” that could be considered to render a plaintiff a prevailing party. But the use of the phrase “such as” plainly indicates that relief must be comparable to the examples used by the *Meyer* panel of the type of relief necessary for a plaintiff to be considered a prevailing party. The common feature of these examples of circumstances in which a plaintiff may be considered a prevailing party is that they all involve the provision of some tangible relief for plaintiff. The judgment in this case provided no tangible relief to plaintiff given that, although it stated that defendant was “liable” to plaintiff, it awarded no damages or other relief to her. Thus, because plaintiff was not a financially successful or prevailing party in this case, *Meyer* required the trial court to deny her request for attorney fees and costs under MCL 37.2802.

Affirmed.

/s/ William B. Murphy  
/s/ Kirsten Frank Kelly