

STATE OF MICHIGAN
COURT OF APPEALS

HELEN CARGAS, Individually and as Personal
Representative of the Estate of PERRY CARGAS,

Plaintiff-Appellant,

v

GLENN BEDNARSH and MICHAEL ESSHAKI,
d/b/a MEL'S DINER,

Defendants-Appellees.

UNPUBLISHED
January 9, 2007

Nos. 263869; 263870
Oakland Circuit Court
LC No. 01-007603-AV

Before: Jansen, P.J., and Sawyer and Bandstra, JJ.

BANDSTRA, J. (*concurring*).

I concur with the decision of the majority opinion to affirm this case for the reasons stated in Part C of its opinion. Plaintiff is estopped from seeking appellate attorney fees for the reasons stated there. In addition, plaintiff failed to cross appeal the order of the district court because it failed to include appellate attorneys fees, when that order was appealed to our Court previously. Because plaintiff was estopped from raising the appellate attorney fee issue at this late point in the proceedings, it is unnecessary to determine whether plaintiff might have been entitled to those attorneys fees under the language of the commercial lease.

/s/ Richard A. Bandstra