

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WEXFORD

GUY HISSONG and BETHANY HISSONG,

Plaintiffs,

v

Case No. 06-19885-CE
HON. PHILIP E. RODGERS, JR.

STEWART BRYCE, an individual,
CAROLYN BRUCE, an individual,
WEXFORD COUNTY, a municipal corporation,
WEXFORD COUNTY DEPARTMENT OF
PUBLIC WORKS, an agency of the County of
Wexford, WEXFORD COUNTY LANDFILL,
A department of Wexford County and/or the
Wexford County Department of Public Works,

Defendants.

James P. O'Neill (P35028)
Attorney for Plaintiffs

Robert Charles Davis (P40155)
Attorney for Plaintiffs

Edward Van Alst (P60702)
Attorney for Defendants Stewart and Carolyn Bryce

Dean Altobelli (P48727)
Attorney for Defendants Wexford County

pc: Mark R. Dancer, Esq.

DECISION AND ORDER DENYING
PLAINTIFF HISSONGS' MOTION FOR RECONSIDERATION
AND
GRANTING PLAINTIFF HISSONGS' MOTION FOR CLARIFICATION

On September 10, 2009, the Court issued a written Decision and Order, granting the Defendant Bryces' Amended Motion for Sanctions and Costs. The Plaintiffs filed a Motion for Reconsideration and Motion for Clarification. The Court has reviewed these Motions and finds

that it is not necessary for the Defendants to respond. Furthermore, the Court dispenses with oral argument, pursuant to MCR 2.119(E)(3). For the reasons stated herein, the Plaintiffs' Motion for Reconsideration is denied, but the Plaintiffs' Motion for Clarification is granted.

Motion for Reconsideration

MCR 2.119(F), entitled Motions for Rehearing and Reconsideration, reads in pertinent part, as follows:

(3) Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

The Court finds that the Plaintiffs' Motion for Reconsideration presents the same issues ruled on by the Court, either expressly or by reasonable implication. The Court does not find that a palpable error has been demonstrated and that a different disposition of the motion must result from the correction of an error. MCR 2.119(F)(3). Therefore, the Plaintiffs' Motion for Reconsideration should be and hereby is denied.

Motion for Clarification

The Court's Order awarding sanctions states:

The Plaintiffs and their counsel are hereby ordered, jointly and severally, to pay the sum of \$11,958.81 to the Defendants Bryce via their attorney within 28 days of the date of this Decision and Order.

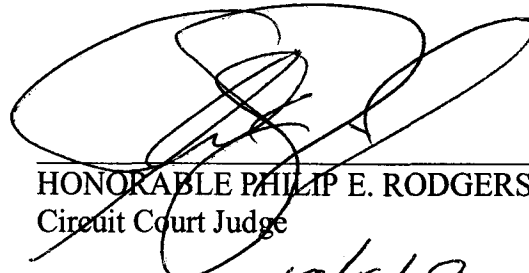
The Plaintiffs seek clarification regarding to whom "their counsel" refers since the Plaintiffs were initially represented by Attorney Mark Dancer of the Dingeman, Dancer & Christopherson law firm who signed and filed their original Complaint and they are now represented by Attorney James P. O'Neill.

The Plaintiffs claim that the Court based its finding that the Defendants were entitled to sanctions on a finding that the Plaintiffs and their counsel filed a frivolous complaint in violation of MCR 2.114. "Their counsel" at that time was Attorney Mark R. Dancer. Therefore, Attorney Mark R. Dancer, and not Plaintiffs' current counsel, should be jointly and severally liable with the Plaintiffs for the sanctions.

The Court would agree, but not completely. Even though the Plaintiffs were initially represented by Attorney Dancer, Plaintiffs' current counsel substituted in as counsel for the Plaintiffs on March 12, 2007. The Defendants' filed a Motion for Summary Disposition on September 21, 2007 which Plaintiffs' current counsel opposed. He continued to espouse the same frivolous position that the Plaintiffs had taken from the inception, resulting in the Defendants' incurring additional attorney fees and costs. Therefore, Attorney Mark R. Dancer should also be sanctioned, but not to the exclusion of Plaintiffs' current counsel.

The Plaintiffs and Attorneys Mark R. Dancer and James P. O'Neill are hereby ordered, jointly and severally, to pay the sum of \$11,958.81 to the Defendants Bryce via their attorney, Edward D. Van Alst, within 28 days of the date of this Decision and Order.

IT IS SO ORDERED.



HONORABLE PHILIP E. RODGERS, JR.
Circuit Court Judge

Dated: 10/16/09