

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE BALCEWICZ, d/b/a
MINUTEMAN ELECTRIC,

UNPUBLISHED
May 10, 1996

Plaintiff-Appellant,

v

No. 162897 & 162907
LC No. 91-130789 CK
AFTER SECOND REMAND

JOSEPH ASCIONE and HARRY KIEF,

Defendants-Appellants.

Before: Cavanagh, P.J., and T.G. Kavanagh* and L.V. Bucci,** JJ.

PER CURIAM.

This case is before this Court for the third time. In *Balcewicz v Ascione*, unpublished opinion per curiam of the Court of Appeals, decided November 4, 1994 (Docket Nos.162897, 162907), we remanded to allow the trial court to clarify its findings. In *Balcewicz v Ascione (After Remand)*, unpublished opinion per curiam of the Court of Appeals, decided November 14, 1995 (Docket Nos.162897, 162907), we affirmed the trial court's finding in favor of plaintiff but again remanded for clarification of the trial court's calculation of damages. We now affirm the trial court's ruling in its entirety.

In its opinion on remand, the trial court found that the parties did not have an express agreement regarding the rates charged by plaintiff. An appellate court reviews a trial court's findings of fact for clear error. A finding of fact is clearly erroneous only if there is no evidence to support it or if the reviewing court on the entire record is left with a firm and definite conviction that a mistake has been made. *Hertz Corp v Volvo Truck Corp*, 210 Mich App 243, 246; 533 NW2d 15 (1995). After

* Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

** Circuit judge, sitting on the Court of Appeals by assignment.

reviewing the record, we conclude that the trial court's finding regarding the lack of any express agreement on rates is not clearly erroneous.

Where a person performs services, furnishes property, or expends money for another at the other's request and there is no express agreement as to compensation, a promise to pay the reasonable value of the services or property or to reimburse for money expended may be implied where, but only where, the circumstances warrant such an inference. 17A Am Jur 2d, Contracts, § 15, p 40. The trial court found that the reasonable value of the work performed was fifteen dollars per hour for on-site work and ten dollars per hour for off-site work. Under the facts of this case, we find the trial court's assessment of the value of plaintiff's services to be reasonable.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Thomas G. Kavanagh

/s/ Lido V. Bucci