

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MICHAEL J. FARRELL,

Plaintiff/Counter-  
Defendant-Appellant,

v

TOM HANNA and FRANK BERLE,

Defendants-Appellees,

and

MARGERY H. WEHNER and CARL E.  
WEHNER,

Defendant/Counter-  
Plaintiffs-Appellees.

UNPUBLISHED

May 21, 1996

No. 181715

LC No. 93-011494-CH

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Before: Sawyer, P.J., and Griffin and M.G. Harrison,\* JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court order awarding attorney fees and costs to defendants as sanctions for filing a frivolous lawsuit. We reverse.

The trial court clearly erred in finding that plaintiff's claim was frivolous under MCR 2.114(E). *LaRose Market, Inc v. Sylvan Center, Inc*, 209 Mich App 201, 210; 530 NW2d 505 (1995). Plaintiff had a reasonable factual and legal basis to believe that vehicular travel was permitted on the recreational easement. Specifically, plaintiff's testimony as to his "assumption" of the proper interpretation of "recreational easement," whether or not accepted by the trier of fact, was a valid basis on which to predicate this lawsuit. Given that the easement was drafted by defendants Wehners'

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

surveyor, any ambiguities in the grant of the easement should have been construed most strictly against the grantor. *Brauer v Hobbs*, 151 Mich App 769, 774; 391 NW2d 482 (1986). Furthermore, the trial court, by ruling that the easement permitted snowmobiles, agreed in part with plaintiff's contention that the easement was not limited to walking only, but permitted some vehicular use. See MCL 257.1501(e); MSA 9.3200(1)(e), where "snowmobile" is defined as a "motor driven vehicle;" see also *People v Rogers*, 438 Mich 602; 475 NW2d 717 (1991), which held that the OUIL statute, MCL 257.625; MSA 9.2325, was applicable because a snowmobile is a vehicle that may operate on a highway under limited circumstances.

Reversed.

/s/ David H. Sawyer

/s/ Richard Allen Griffin

/s/ Michael G. Harrison