

STATE OF MICHIGAN
COURT OF APPEALS

DERRICK TAYLOR, a minor, by and through
his next friend, PERRY TAYLOR,

UNPUBLISHED
September 20, 1996

Plaintiff-Appellee,

v

No. 166416
LC No. 84283497 NO

JAMES MANNING and BRUCE MANNING,

Defendant-Appellant.

Before: Markman, P.J., and Marilyn Kelly and L.V. Bucci,* JJ.

PER CURIAM.

In this dog bite case, defendants appeal as of right from the trial judge's grant of additur, increasing the jury award from \$15,000 to \$55,000.

Defendants argue that the trial judge abused his discretion in ordering additur. They assert that the judge erred by failing to follow a previous order of this Court, directing him to ascertain the lowest verdict that the evidence would support. Finally, they claim that a new trial is warranted where they did not consent to entry of the judgment and asserted their right to a jury determination of plaintiff's damages. We affirm.

We are bound by the previous decision of this Court that additur was properly granted. Under the law of the case doctrine, a ruling by an appellate court on a particular issue binds the appellate court and all lower courts as to that issue. *Reeves v Cincinnati, Inc (After Remand)*, 208 Mich App 556, 559-560; 528 NW2d 787 (1995); *Bruce Twp v Gout (After Remand)*, 207 Mich App 554, 557-558; 526 NW2d 40 (1994). In the instant case, this Court previously determined that the judge did not abuse his discretion in granting plaintiff's motion for additur. *Taylor v Manning*, unpublished opinion per curiam of the Court of Appeals, issued 6/35/92 (Docket No. 119826). Therefore, we will not reconsider that issue.

Defendants argue that the judge erred in not following this Court's order to ascertain the lowest

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

verdict that the evidence would support. The opinion stated:

Consequently, we reverse and remand to allow the trial court an opportunity to evaluate comparable cases together with the mediation award on the record, and decide whether the amount of the additur which was previously granted is the lowest verdict the evidence will support. [*Taylor v Manning*, unpublished opinion per curiam of the Court of Appeals, issued 6/35/92 (Docket No. 119826).]

It would have been more helpful to us, for purposes of review, if the trial judge, after looking at comparable cases, had fully explained his reasoning on the record. However, we are satisfied that the judge complied with this Court's previous opinion in reaching his decision. After looking at comparable cases submitted by both parties along with the mediation award, the judge determined that \$55,000 was the lowest verdict that the evidence would support. We find that the record supports the judge's decision.

Finally, defendants argue that they are entitled to a new trial on the issue of damages, because they did not consent to the additur. We find that defendants have waived this issue by failing to raise it in their first appeal. *Vanderwall v Midkiff*, 186 Mich App 191, 201; 463 NW2d 219 (1990).

Affirmed.

/s/ Stephen J. Markman

/s/ Marilyn Kelly

/s/ Lido V. Bucci