

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

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ATHANASIOS PERISTERIS and  
PAGONA PERISTERIS,

UNPUBLISHED  
October 29, 1996

Plaintiffs-Appellees,

v

No. 185054  
LC No. 93-319631

DEANNA LEE DALY, JOHN T. DALY,  
JOHN DALY and LOIS DALY,

Defendants,

and

ROBERT DICE, JR.,

Appellant.

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Before: Cavanagh, P.J., and Murphy and C.W. Simon, Jr.,\* JJ.

PER CURIAM.

Appellant Robert E. Dice, Jr., appeals as of right the trial court order assessing costs and expenses in the underlying personal injury action. We reverse.

Appellant asserts that the trial court erred in imposing sanctions for imposing sanctions on him for delaying his pursuance of a settlement until trial was imminent and therefore causing the trial court to remain unused during the three days scheduled for trial. We review the trial court's decision to impose sanctions for an abuse of discretion. *Richardson v Ryder Truck Rental, Inc*, 213 Mich App 447, 450; 540 NW2d 696 (1995). An abuse of discretion exists when the result is so palpably and grossly violative of fact and logic that it evidences perversity of will or the exercise of passion or bias rather than the exercise of discretion. *Dacon v Transue*, 441 Mich 315, 329; 490 NW2d 369 (1992).

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

We conclude that the trial court abused its discretion in imposing sanctions on appellant. Appellant received no notice that he could be subject to sanctions for settling his case immediately before trial. Nothing in the trial court's scheduling order warned appellant that if a late settlement occurred, he might be liable for the costs of shutting down the court. A trial court should not imposed monetary sanctions on attorneys without prior notice. *Eash v Riggins Trucking Inc*, 757 F2d 557, 570 (CA 3, 1985).

Moreover, we conclude that while the sanction imposed in this case may deter attorneys from wasting judicial resources through undue delay, it contravenes the policy of encouraging settlements when feasible. See *Brewer v Payless Stations, Inc*, 412 Mich 673, 679; 316 NW2d 702 (1982). The practical effect of the trial court's action will be to cause some cases that might have been settled to proceed to trial.

Because of our finding that the trial court abused its discretion in imposing sanctions in the present case, we do not address appellant's contention that the trial court does not have the authority to impose such sanctions.

Reversed.

/s/ Mark J. Cavanagh  
/s/ William B. Murphy  
/s/ Charles W. Simon, Jr.