

STATE OF MICHIGAN
COURT OF APPEALS

JOHN FODERA and SABRINA FODERA,

Plaintiffs-Appellees,

v

KEENAN VAN LOBBS and KYLEE LYNN
LOBBS,

Defendants-Appellants.

UNPUBLISHED

January 31, 2006

No. 256555

Genesee Circuit Court

LC No. 03-076302-NI

JOHN FODERA and SABRINA FODERA,

Plaintiffs-Appellants,

v

KEENAN VAN LOBBS and KYLEE LYNN
LOBBS,

Defendants-Appellees.

No. 259097

Genesee Circuit Court

LC No. 03-076302-NI

Before: Talbot, P.J., and White and Wilder, JJ.

WHITE, J. (*concurring*).

While the supplemental instruction departed from the standard jury instruction, I conclude that reversal is not required. After reviewing the record in its entirety, including the various videotaped depositions, I am satisfied that the supplemental instruction did not affect the verdict.

Further, while I do not agree with the majority's conclusion that the videotapes defendant withheld in discovery were properly presented to the jury, I am also satisfied that the admission of the tapes did not affect the verdict.

Finally, while defense counsel improperly argued to the jury that his clients felt horrible about the accident when no such evidence was presented to the jury (defendants admitted liability before trial), and the record shows that defendants denied the existence of the stop ahead and stop signs that they in fact ran immediately before striking plaintiffs' vehicle and causing it

to roll over multiple times, I agree that the issue was not preserved and that reversal is thus unsupported. *Reetz v Kinsman Marine Transit Co*, 416 Mich 97, 102-103; 330 NW2d 638 (1982).

In all other respects, I agree with the majority.

/s/ Helene N. White