

STATE OF MICHIGAN
IN THE SUPREME COURT

CITY OF HUNTINGTON WOODS, a
Michigan Municipal Corporation and
CITY OF PLEASANT RIDGE, a
Michigan Municipal Corporation,

Supreme Court No. 152035

Plaintiffs/Counter-Defendants/Appellants,

Court of Appeals No. 321414

-vs-

Oakland County Circuit Court
No. 13-135842-CZ

CITY OF OAK PARK, a Michigan
Municipal Corporation, and 45th DISTRICT
COURT, a Division of the State of Michigan,
jointly and severally,

Defendants/Counter-Plaintiffs/Appellees.

PLAINTIFFS-APPELLANTS' REPLY BRIEF

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FACTS

As anticipated, the defendants have come before this Court characterizing the 45th District Court as chronically underfunded and that this claimed institutional impecunity is the product of plaintiffs' "shirking" or "evading" of their statutory funding obligations. Whether the 45th District Court is or not underfunded is of no consequence to the legal issues presented in this appeal. The jurisprudentially significant question presented in this case is whether under the District Court Act, when read as a whole, the two municipal plaintiffs have a funding responsibility for the operation of that court beyond that provided in MCL 600.8379(1)(c).

The facts construed in the light most favorable to the plaintiffs demonstrate the following: The 45th District Court came into being on January 1, 1975. The City of Oak Park *wanted* to be the sole situs for that court. For that reason, the City Manager of Oak Park prepared draft resolutions for the governing bodies of Huntington Woods and Pleasant Ridge, which provided that they would waive their statutory duty to maintain a court within their jurisdictions and allowing the district court to sit only in Oak Park. Both Huntington Woods and Pleasant Ridge passed the resolutions that had been urged on them by Oak Park's City manager.

For the next 38 years, Oak Park became the sole situs of the court as well as the sole funding source for the 45th District Court. In the 38 years between the formation of the 45th District Court in 1975 and the filing of Oak Park's counterclaim in this case, Oak Park made only one claim for some additional funding from the plaintiffs. This occurred in 1983, when Oak Park passed a resolution entreating plaintiffs to enter into an agreement as allowed by MCL 600.8104(3) for the sharing of funding responsibilities.

Thus, for a period of 38 years, the defendants, who are so eager to impress upon this Court

the dire financial circumstances besetting the 45th District Court, did virtually nothing to seek further funding from Huntington Woods and Pleasant Ridge. There are only two possible explanations for this 38 year hiatus. Either the defendants were aware that the parties had reached agreement as to Oak Park's status as sole funding source for the district court - a point that the defendants categorically reject - or the defendants happened to read the governing funding provisions of the District Court Act precisely the same way that plaintiffs have in this case.

ARGUMENT

I. THIS COURT SHOULD GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS ERRED IN CONCLUDING THAT EVERY CITY OR TOWNSHIP THAT IS WITHIN A DISTRICT COURT OF THE THIRD CLASS HAS A STATUTORY OBLIGATION TO FUND THE OPERATIONS OF A DISTRICT COURT EVEN WHERE THAT COURT IS LOCATED IN ANOTHER POLITICAL SUBDIVISION WITHIN THAT DISTRICT.

The central point that plaintiffs attempted to make in their application for leave is that, considering the District Court Act as a whole, the funding provisions of that act are far more complex than the Court of Appeals made them. The defendants, however, have opted for simplicity. They argue on the basis of a single statute, MCL 600.8271(1), that plaintiffs have an obligation to fund the district court. Virtually all of the interpretative difficulties identified by plaintiffs in their application for leave associated with the Court of Appeals expansive reading of §8271(1) have been ignored by the defendants.¹

For example, plaintiffs pointed out that the Court of Appeals broad interpretation of §8271(1) dictates the conclusion that the Michigan Legislature established a general rule in MCL 600.8104(2),

¹In its brief, the 45th District Court asserts that §8271 “is the exclusive statute which addresses the funding and operation of district courts . . .” Def’s Brf, at 14. This is obviously a misstatement. MCL 600.8104 clearly addresses this subject as well.

i.e. that a political subdivision *shall* not be responsible for the funding of a circuit court that sits beyond its borders, but because of the Court of Appeals reasoning in this case, that general rule will *never* be applied in any situation. The defendants offer no response to this argument.² Nor do defendants contest the point that the Court of Appeals expansive interpretation of §8271(1) renders completely superfluous §8104(2)'s reference to another exception found in MCL 600.8621. *See* Plaintiffs' Application for Leave, at 17-19.

Perhaps most tellingly of all, defendants basically choose to stand mute with respect to the critical interrelationship between §8104(3) and §8271(1). *See* Plaintiffs' Application for Leave, at 19-22. Oak Park offers the view that this argument "ignores the clear language of MCL 600.8104(2) - 'except as otherwise provided in this act . . .'" Def's Brf, at 19. But, as plaintiffs pointed out in their application, what is significant about §8104(3) is that it does *not* include the "except as provided" language of the previous subsection. *Cf Farrington v Total Petroleum, Inc.*, 442 Mich 201, 210; 501 NW2d 76 (1993) ("Courts cannot assume that the Legislature inadvertently omitted from one statute the language that it placed in another statute, and then, on the basis of that assumption, apply what is not there.").

Another logical difficulty with the Court of Appeals reading of §8271(1) is that there is no statutory framework for the allocation of funding responsibilities among governmental subdivisions. This significant omission is, plaintiffs' view, yet another indication that the Michigan Legislature

²The 45th District Court does acknowledge plaintiffs' argument that a broad interpretation of §8271 would "completely obliterate" the general rule of §8104(2). Def's Brf at 11. The 45th District Court further extends itself by indicating that this argument is "simply incorrect." *Id.* Unfortunately, the 45th District Court proceeds to another subject without explaining precisely why plaintiffs' analysis of the interplay between §8104(2) and §8271 is "simply incorrect." Plaintiffs can only assume that the 45th District Court chooses not to analyze this particular point primarily because plaintiffs were "simply correct" in raising it.

set up a system in which, absent express agreement to the contrary, only a single political subdivision would be responsible for the operation of a district court of the third class that sits in only one location.

The defendants have attempted to plug this analytical gap with a court rule, MCR 8.201(A)(3). But, employing this court rule in this manner creates significant constitutional difficulties of its own. *See* Plaintiffs' Application for Leave, at 24-26. Oak Park mysteriously suggests that there is no such constitutional difficulty because this court rule is "an administrative rule" that "falls within the superintending control of the Supreme Court." Def's Brf, at 28.

There is no question that this Court has been constitutionally assigned "general superintending control over all courts." Const. 1963, art 6, §4. There is also no question that this constitutional authority is broad in scope. *See In re Huff*, 352 Mich 402, 417-418; 91 NW2d 613 (1958). But, this constitutional authority "cannot be restricted or removed by legislative action." *Id.* at 417. If Oak Park were correct and the Court has the power under Const. 1963, art 6, §4, to address the mechanism by which district courts are to be funded, it would mean that the Legislature does not have that power.³

The 45th District Court offers a different view. It asserts that MCR 8.201 is constitutionally proper under art 6, §5 because it is "nothing more than practice and procedure of the courts." Def's Brf, at 14. This observation is offered without citation to any authority supporting it. The lack of authority to support this assertion serves to confirm what plaintiffs argued in their application for leave - the suggestion that this Court can invoke its rule-making authority to promulgate a court rule

³In any event, if Oak Park were actually serious in its contention that the constitutional authority to promulgate MCR 8.201(A) derives from this Court's authority under art 6, §4, this would present a significant constitutional question in its own right.

like MCR 8.201 represents a unique question of constitutional law that, in and of itself, deserves review by this Court.

Finally, plaintiffs pointed out that, contrary to the general theme of the defendants' responses, Hunting Woods and Pleasant Ridge do, in fact, contribute to the operation of the district court through the statutory division of fees and costs provided in MCL 600.8379(1)(a). The 45th District Court states the obvious - §8379(1)(c) is not a district court funding apparatus per se since it calls for a distribution of court revenues. But, in light of the fact that a sizable percentage of the distribution of the funds generated by tickets issued in Huntington Woods and Pleasant Ridge tickets goes to Oak Park solely because of Oak Park's status as the municipality that houses the district court, *see* MCL 600.8379(1)(c), the obvious question presented is whether these distributions were designed by the Michigan Legislature to represent *the* funding responsibilities of cities like Huntington Woods and Pleasant Ridge that do not serve as the situs for a district court.

But as plaintiffs have already pointed out, if this is not the Legislature's will and the Court of Appeals was correct in concluding that plaintiffs must *both* remit to Oak Park the amounts called for by §8379(1) *and* share the court expenses under §8271(1) and MCR 8.201(A)(3), a city like Oak Park, which houses the district court, could well reap a windfall. Oak Park could collect its statutory 2/3 on every ticket issued in Huntington Woods and Pleasant Ridge and, in addition, demand the percentage of funding from these two cities under MCR 8.201(A)(3).

Once again, the defendants' silence in response to this argument is significant. Neither of the defendants has challenged plaintiffs' point that the Court of Appeals decision in this case could result in a windfall for Oak Park. The prospect of such an undeserved windfall provides yet another reason to question the Court of Appeals interpretation of the funding provisions of the District Court

Act in this case.

All of the interpretative difficulties associated with the Court of Appeals expansive reading of §8271(1) point in a single direction. When §8271(1) speaks of a “district funding unit,” it is referring to a political subdivision that otherwise has funding responsibilities under the District Court Act. Read in this light, §8271(1) does not have the effect of rendering the general rule with respect to funding expressed in §8104(2) completely pointless.

II. THIS COURT SHOULD GRANT LEAVE TO APPEAL TO CONSIDER WHETHER FACTUAL ISSUES REMAINED ON THE QUESTION OF WHETHER THE PARTIES REACHED AN AGREEMENT FOR THE ALLOCATION OF THE EXPENSES OF THE 45TH DISTRICT COURT.

The second issue that plaintiffs have raised in their application concerns plaintiffs’ claims of the existence of an agreement between Huntington Woods, Pleasant Ridge and Oak Park as to how the 45th District Court should be funded. The issue raised in plaintiffs’ application was whether there was sufficient evidence to support the entry of summary disposition in Oak Park’s favor on the ground that no such agreement existed.

As indicated in the 45th District Court’s brief, “Oak Park has specifically *stated* that a diligent search of its records confirmed there is no agreement or resolution pertaining to the funding and operation of the 45th District Court.” Def’s Brf, at 18 (emphasis added). Plaintiffs do not contest that Oak Park has *stated* that no such agreement ever existed. The basic question that plaintiffs have presented is whether the defendants satisfy the burdens imposed on them in MCR 2.116(G) by simply *stating* that there is no such agreement.

In plaintiffs’ view, this is not enough. Under the court rules, to obtain judgment in their favor, the defendants had to present some evidence in the form of affidavits, depositions, admissions

or other appropriate documentary evidence to support such a statement. *See* MCR 2.116(G)(2), (3). Because defendants only announced that no such agreement existed, without evidence supporting that announcement, it was not appropriate to grant summary disposition on this issue.⁴

III. THE COURT SHOULD GRANT LEAVE TO APPEAL TO CONSIDER WHETHER THE COURT OF APPEALS ERRED IN CONCLUDING THAT OAK PARK DID NOT VIOLATE MCL 600.8379(1).

The final issue raised in plaintiffs' application for leave concerns the Court of Appeals misinterpretation of MCL 600.8379(1), the statute that calls for a 2/3 - 1/3 split of the "fines and costs" assessed in any district court action. The defendants insist that the additional assessments that the district court and Oak Park added to Huntington Woods and Pleasant Ridge tickets between 1995 and 2013 were not within the coverage of §8379(1) because they were "fees", not fines or costs covered by that statute.

Oak Park commends the Court of Appeals for having "carefully considered" MCL 600.4801 in arriving at its conclusion that the added assessments to Huntington Woods and Pleasant Ridge tickets were fees, not fines or costs. Def's Brf, at 30. Unfortunately, the Court of Appeals consideration of §4801 was not quite careful enough to detect the significance of the first five words of that statute, which limit that statute's reach solely to Chapter 48 of the Revised Judicature Act.

Oak Park seeks to correct this oversight by suggesting that the reference to "chapter" in §4801 is to the entirety of the RJA. This is an untenable argument.

MCL 600.101, the RJA's first section, provides that "[t]his *act* shall be known and may be cited as the 'revised judicature *act* of 1961.'" (emphasis added). The Revised Judicature *Act* is then

⁴It is also worth stressing that when defendant's motion for summary disposition was filed in the circuit court, the time period set for discovery had yet to expire.

divided into approximately 80 separate chapters. Consistent with this terminology, the Legislature was well aware as to how to draft a definitional section that would apply to the entirety of the RJA. Thus, MCL 600.111 specifies, “[t]he term ‘counterclaim’ as used in this *act*, includes setoff and recoupment.” (emphasis added). Similarly, MCL 600.112 defines the term judgment “as used in this *act*,” and MCL 600.113 contains a series of definitions that apply to all of the RJA since that statute begins with the phrase “as used in this *act*.” (Emphasis added). The RJA as a whole is “an act,” and if a definition contained in that act is to apply to the entirety of the RJA, the appropriate language to be used is reflected in such statutes as MCL 600.111, MCL 600.112 or MCL 600.113.

By contrast, the opening phrase in §4801 does not refer to “the act,” *i.e.*, the RJA in general. Rather, it only refers to “this chapter.” Since this Court “may not assume that the Legislature inadvertently made use of one word or phrase instead of another,” *Robinson v City of Detroit*, 462 Mich 439, 459; 613 NW2d 307 (2000), the word “chapter” in §4801 has to mean something different than the word “act” in MCL 600.111, MCL 600.112 and MCL 600.113.⁵

Oak Park also uses its response to impress upon the Court how necessary these additional assessments purportedly were to the financial health of the district court. Plaintiffs have never challenged the defendants’ need or their right to add these additional assessments to tickets written in Huntington Woods and Pleasant Ridge. Plaintiffs have only maintained that these assessments constitute costs or fines that are subject to the statutory distribution fraction provided in §8379(1).

Both defendants also take issue with plaintiffs’ citation to this Court’s decision in *People v*

⁵The 45th District Court offers the curious assertion that plaintiffs’ argument as to the inapplicability of §4801 “runs afoul of the basic principles of statutory construction.” Def’s Brf, at 21. There is no more basic principle of statutory construction than that a court is bound by the words chosen by the Legislature. Inasmuch as the Legislature chose to use the word “chapter” in §4801, no further construction of any kind is required.

Cunningham, 496 Mich 145; 852 NW2d 118 (2014), as supportive of their claims that these additional assessments constitute fines and costs for purposes of §8379(1). Plaintiffs do not quarrel with defendants' position that the Court's holding in *Cunningham* is not in itself particularly significant to the issue presented in this case. But, what the Michigan Legislature did in the wake of *Cunningham* provides powerful insight into how these additional assessments should be treated under §8379(1).

What the Legislature did following *Cunningham* was to amend MCL 769.1k to include within the ambit of assessable costs on any conviction certain additional amounts, including those for the salaries or benefits of court personnel or expenses for court building operations - the very purposes for the special assessments that are at issue in this case. *See* MCL 760.1k(1)(b).

While the recently amended MCL 760.1k(1)(b) may not control the interpretation of the phrase "fines or costs" as used in §8379(1), it does provide legislative insight into the scope of the term "costs" and is, in that sense, of importance here.

RELIEF REQUESTED

Based on the foregoing, plaintiffs-appellants, the City of Huntington Woods and the City of Pleasant Ridge, respectfully request that this Court grant their application for leave to appeal and give full consideration to the important issues presented in this case. In the alternative, plaintiffs request that the Court summarily reverse the Court of Appeals June 11, 2015 decision and remand this matter to the Oakland County Circuit Court for further proceedings.

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