

# Order

Michigan Supreme Court  
Lansing, Michigan

January 18, 2013

145205 & (42)

TIMOTHY E. BAXTER and NOAH T. BAXTER,  
Plaintiffs-Appellants  
Cross-Appellees,

v

DENNIS GEURINK, a/k/a DENNIS GEURINK  
d/b/a OUTDOOR ADVENTURES,  
Defendant-Appellee  
Cross-Appellant.

SC: 145205  
COA: 301748  
Kent CC: 10-007132-AV

Robert P. Young, Jr.,  
Chief Justice

Michael F. Cavanagh  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack,  
Justices

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On order of the Court, the application for leave to appeal the April 24, 2012 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The application for leave to appeal as cross-appellant is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals. Michigan generally follows the “raise or waive” rule of appellate review. *Walters v Nadell*, 481 Mich 377, 387 (2008). Failure to timely raise an issue waives review of that issue on appeal. *Id.*, citing *Napier v Jacobs*, 429 Mich 222, 227 (1987). Because the plaintiffs did not challenge the hourly rate or the amount of time expended before the trial court, the issue regarding actual costs was not preserved for appellate review. Therefore, there is no need for an evidentiary hearing. We REMAND this case to the 61<sup>st</sup> District Court for entry of an order granting the defendant the entire amount of attorney fees and costs requested.

We do not retain jurisdiction.

HATHAWAY, J., not participating.



t0116

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 18, 2013

Clerk