

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 17, 2008

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2007AP2029

Cir. Ct. No. 2007SC44

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

JOLANDA NAQELLARI,

PLAINTIFF-APPELLANT,

MAJLINDA NAQELLARI,

APPELLANT,

v.

DEVRION COOK-JILES AND BERNARD JILES,

DEFENDANTS-RESPONDENTS.

APPEAL from a judgment of the circuit court for Milwaukee County: MICHAEL B. BRENNAN, Judge. *Affirmed.*

¶1 KESSLER, J.¹ Jolanda Naqellari appeals from a judgment wherein she was awarded \$220.55 less than she requested for repair of her vehicle following an accident in which the circuit court found the driver of the other vehicle involved one hundred percent liable for the damage. We affirm.

¶2 This case arises from a multiple vehicle collision where Candice Jiles, the minor daughter of Devrion Cook-Jiles and Bernard Jiles, (hereinafter, collectively Jiles), drove a vehicle without permission and while driving it, collided with Naqellari's vehicle and another vehicle while they were lawfully parked at a Milwaukee County park. At trial, the individual who repaired Naqellari's vehicle testified that some of the repairs were done over and above what would normally be covered by insurance. The trial court found Jiles one hundred percent liable for the damage to the vehicle, and in making its damage award, deducted the value of the additional repairs, plus the related sales tax, from its award in the amount of \$220.55. Naqellari appeals this reduction.² Jiles, despite being given numerous notices and extensions to do so, have not appeared in this appeal.

¶3 This court noted in its April 8, 2008 order that due to Jiles' failure to submit their brief to the court, the judgment may be summarily reversed. We decline to do so and exercise our option to rule on the merits.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2005-06). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

² Naqellari also requests in her appeal information as to how to collect on the judgment, stating that the court never provided her with this information. The court is sympathetic with Naqellari's plight. We encourage Naqellari to contact an attorney to enforce her rights under the judgment because courts may not give legal advice.

¶4 Determination of damages is within the trial court’s discretion. *Three & One Co. v. Geilfuss*, 178 Wis. 2d 400, 410, 504 N.W.2d 393 (Ct. App. 1993). The limited scope of our review of discretionary rulings is well settled and generally, “[w]e will not reverse a discretionary determination by the trial court if the record shows that discretion was in fact exercised and we can perceive a reasonable basis for the court’s decision.” *Prahl v. Brosamle*, 142 Wis. 2d 658, 667, 420 N.W.2d 372 (Ct. App. 1987). Rather, “[b]ecause the exercise of discretion is so essential to the trial court’s functioning, we generally look for reasons to sustain discretionary determinations.” *Schneller v. St. Mary’s Hosp. Med. Ctr.*, 155 Wis. 2d 365, 374, 455 N.W.2d 250 (Ct. App. 1990), *aff’d*, 162 Wis. 2d 296, 470 N.W.2d 873 (1991).

To determine whether the trial court properly exercised its discretion in a particular matter, we look first to the court’s on-the-record explanation of the reasons underlying its decision. And if that explanation indicates that the court looked to and “considered the facts of the case and reasoned its way to a conclusion that is (a) one a reasonable judge could reach and (b) consistent with applicable law, we will affirm the decision.”

Steinbach v. Gustafson, 177 Wis. 2d 178, 185-86, 502 N.W.2d 156 (Ct. App. 1993) (citation omitted). The trial court’s explanation of its decision on this issue meets these standards. Further, a trial court’s findings of fact relating to damages will not be upset on appeal unless they are clearly erroneous. *Geilfuss*, 178 Wis. 2d at 410.

¶5 In this case, the trial court considered the testimony of Naqellari’s own expert, the individual whose shop made the repairs. This individual testified that some of the repairs done on Naqellari’s vehicle would not have been covered by insurance if the claim had been submitted to an insurer. Based on this testimony, the trial court determined that Naqellari was not entitled to recover

these amounts from Jiles, and did not include the cost of these additional repairs, along with the sales tax associated with them, in its award of damages. We do not find this conclusion clearly erroneous and affirm, awarding costs of this appeal to Naqellari.³

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

³ See WIS. STAT. § 809.25(1).

