

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 09a0826n.06

Case No. 08-4217

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
**Dec 22, 2009**  
LEONARD GREEN, Clerk

**OLD GRANITE DEVELOPMENT, LTD,** )  
 )  
 **Plaintiff-Appellant,** )  
 )  
 **v.** )  
 )  
 **CITY OF TOLEDO; RIC-MAN** )  
 **CONSTRUCTION, INC.; VERMILLION** )  
 **LAND CLEARING SERVICE,** )  
 )  
 **Defendants-Appellees.** )  
 \_\_\_\_\_ )

**ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE NORTHERN  
DISTRICT OF OHIO**

**BEFORE: BATCHELDER, Chief Judge; GRIFFIN, Circuit Judge; TARNOW,\* District Judge.**

**ALICE M. BATCHELDER, Chief Judge.** Old Granite Development appeals from the district court’s order denying Old Granite’s Motion for a New Trial and/or Additur following a jury trial on its claims that contractors hired by the City of Toledo improperly removed foliage from Old Granite’s developed property in Wood County, Ohio, impairing the value of that property. CSX, the owner of adjoining land, and Vermillion Land Clearing Service and Ric-Man Construction, Inc., the contractors, were originally defendants in this action and either settled with Old Granite or were dismissed on summary judgment. Old Granite continued to a jury trial against Toledo on claims of unconstitutional taking — the basis of federal jurisdiction — as well as negligence and trespass. The jury found in favor of Toledo on the negligence and unconstitutional taking claims, and in favor of

---

\* The Honorable Arthur J. Tarnow, United States District Judge for the Eastern District of Michigan, sitting by designation.

Old Granite on the trespass claim, but it awarded Old Granite no damages.

Old Granite filed a motion for new trial, claiming that the trial had been unfair because of, among other things, improper comments by Toledo's counsel, Toledo's untimely production of evidence, the court's exclusion of certain of Old Granite's evidence and witnesses, and the verdict's being inconsistent and contrary to the evidence. Old Granite also requested additur to the \$0 in damages it had been awarded, in an amount that would have given it the benefit of the settlement that Toledo had offered prior to trial. After the motion was fully briefed, the district court entered an opinion and order denying the motion for new trial. Old Granite timely appealed.

After carefully reviewing the record, the applicable law, the parties' briefs and counsels' arguments, we are convinced that the district court committed no reversible error. As the district court's opinion carefully and correctly sets out the law governing the issues raised, and clearly articulates the reasons underlying its decision, issuance of a full written opinion by this court would serve no useful purpose. Accordingly, for the reasons stated in the district court's opinion, we **AFFIRM.**