

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
May 7, 2002 Session

**WILLIAM J. REINHART, ET AL. v. ROBERT T. KNIGHT, ET AL.**

**Circuit Court for Rutherford County  
No. 41560 James L. Weatherford, Judge**

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**No. M2001-02195-COA-R3-CV - Filed December 4, 2003**

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BEN H. CANTRELL, P.J., M.S., dissenting.

I respectfully dissent from the majority's decision to reinstate the jury verdict. I would reverse the judgment below and remand for a new trial on all issues.

I think the only conclusion we can draw from this record is that the trial judge disagreed with the verdict against the Knights. Under those circumstances the judge's duty is to grant a new trial. *James E. Strates Shows, Inc. v. Jakobik*, 554 S.W.2d 613 (Tenn. 1977). Our duty, then, is to do what the trial judge should have done. *Sherlin v. Roberson*, 551 S.W.2d 700 (Tenn. Ct. App. 1976).

If the Knights did not breach the contract, or if they did breach it and the plaintiffs were not injured by the breach, then there is no basis for a judgment against the other defendants. Therefore, I would remand for a new trial on all issues.

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BEN H. CANTRELL, P.J., M.S.