STATE OF MICHIGAN

COURT OF APPEALS

STEPHEN CRAIG and LILLIAN CRAIG, Individually and as Next Friend of JENNIFER CRAIG and TODD CRAIG,

Plaintiffs-Appellants,

v

MSRDA, INC, INTERNATIONAL SNOWMOBILE RACING, INC, JERRY BORON, DAVID DUNIGAN, GARY MOLINA, JANET MOLINA, and LEWISTON CHAMBER OF COMMERCE,

Defendants-Appellees.

UNPUBLISHED
January 31, 1997

No. 185108
Montmorency Circuit Court
LC No. 94-003045-NO

Before: Markman, P.J., and O'Connell and D. J. Kelly,* JJ.

PER CURIAM.

Plaintiffs appeal by right from an order granting summary disposition for defendant Lewiston Chamber of Commerce pursuant to MCR 2.116(C)(10). The trial court had previously granted summary disposition to all other defendants. We affirm.

Plaintiffs first argue that a genuine issue of material fact existed regarding whether defendants had created the snow embankment into which plaintiff Stephen Craig crashed while riding his snowmobile with a companion, Ronald Germaine, on then-frozen East Twin Lake. Plaintiffs alleged that the embankment into which Stephen Craig crashed was created during the construction of a snowmobile race course by defendants, and that defendants negligently failed to dismantle, mark or warn of the embankment after the snowmobile races were over. However, defendants' testimonial and documentary proofs tended to establish (1) that plaintiff had not crashed anywhere near the area of defendants' race course, and (2) that the embankment into which plaintiff crashed was not a product of the construction of the race course. First, several witnesses placed the location of plaintiff's crash generally near the foot of Tamarac Court, a Lewiston street that comes to a dead end at East Twin

* Circuit judge, sitting on the Court of Appeals by assignment.

Lake over 1,000 feet from the race area. Although the investigating officer initially testified that plaintiff's crash was approximately only 150 feet from defendants' race course, after later consulting a map he confirmed that the distance between the race course and Tamarac Court was considerably greater. The witness estimate most favorable to plaintiffs, that of Stephen Craig's companion Germaine, placed the crash at least 300 to 450 feet from defendants' race area. Plaintiffs' responsive proofs highlighted the inconsistencies of the various witnesses' testimony regarding estimates of the exact location of plaintiff's crash as well as immaterial details (e.g., whether plaintiff crashed into a "pressure ridge" or a "snow embankment"), but plaintiffs did not refute the evidence that the crash had not occurred anywhere near defendants' race course. Second, plaintiffs also failed to refute testimony that tended to establish that the embankment into which Stephen Craig crashed was not a product of the construction of the race course.[1] As such, we agree that no record could reasonably have been developed upon which reasonable minds could have differed regarding whether plaintiff had crashed in the race area. Summary disposition for defendants was therefore proper. *Taylor v Lenawee Co Bd of Co Rd Comm'rs,* 216 Mich App 435, 437; 549 NW2d 80 (1996).

Plaintiffs argue that the testimony of witness Germaine indicated that Germaine was biased against them and that summary disposition was therefore inappropriate since the motive or state of mind of a witness was in doubt. We disagree. Even assuming plaintiffs' allegations about Germaine were true, such would not have refuted the evidence that plaintiff's crash took place near Tamarac Court. Indeed, among all the witnesses, Germaine's estimate placed plaintiff's crash closest to the race area, at 300 to 400 feet away, and was therefore the most favorable to plaintiffs.

Plaintiffs claim that snow clearing efforts undertaken during the construction of defendants' race course led to the buildup of huge piles of snow north of the race area. These piles were necessarily moved to the east and west (as far as Tamarac Court) to keep the embankments uniform and to maximize public access to the area because local volunteers wanted the races to continue to be held in Lewiston. Plaintiffs argue that a factfinder could have so inferred. However, we find such an inference upon an inference to be excessively speculative and find no factual basis upon which a factfinder could have *reasonably* so concluded. *Taylor, supra* at 437.

Finally, we also note and reject plaintiffs' contention that they were precluded from obtaining proper discovery in this case, claiming (1) that they were precluded from deposing defendants' officers and (2) that they were denied access to original photographs of the crash scene. We disagree. With regard to deposing defendants' officers, there is nothing in the record to indicate that plaintiffs were prevented from so doing. Moreover, plaintiffs do not set forth what evidence they believe would have been forthcoming from any such deposition. See *Rosenboom v Vanek,* 182 Mich App 113, 119-120; 451 NW2d 520 (1989). Further, with regard to obtaining original photographs, we note that plaintiffs were provided clear laser copies of such photographs and they have not attempted to demonstrate why those were somehow inadequate with regard to the issues on this appeal.

Affirmed.

/s/ Stephen J. Markman
/s/ Peter D. O'Connell
/s/ Daniel J. Kelly

[1] We note that plaintiffs presented several substantively identical affidavits in which the various affiants, including plaintiffs themselves, averred that it was their "understanding and belief" that the embankment into which plaintiff crashed was created during the construction of defendants' race area. However, averments of opinion or conjecture, without some basis in fact, are inadmissible as violative of MCR 2.119(B)(1), and therefore may not preclude summary disposition. MCR 2.116(G). See *Libralter Plastics, Inc v Chubb Group of Insurance Companies*, 199 Mich App 482, 486; 502 NW2d 742 (1994); *SSC Associates Limited Partnership v General Retirement System of the City of Detroit*, 192 Mich App 360, 364; 480 NW2d 275 (1991).