STATE OF MICHIGAN

COURT OF APPEALS

BRENDA BARNES,

Plaintiff-Appellant,

v

J & G INDUSTRIES, INC.,

Defendant-Appellee,

and

AIR FEEDS, INC.,

Defendant-Cross-Plaintiff-Appellee,

and

A & W TOOL & MANUFACTURING,

Defendant-Cross-Defendant-Appellee,

and

THOMAS MACHINE MANUFACTURING COMPANY, a foreign corporation established in Michigan; F.P. MILLER COMPANY, a Michigan corporation; and E & W ENGINEERING COMPANY, a Michigan business entity,

Non-parties.

UNPUBLISHED
April 25, 1997

No. 195098
Jackson Circuit Court
LC No. 90-053961 NP

Before: Griffin, P.J., and Doctoroff and Markman, JJ.

PER CURIAM.

Plaintiff Brenda Barnes was injured when she was working on a power press on the premises of her employer, defendant A & W Tool and Manufacturing Corporation (A & W). Plaintiff signaled to a co-worker, Lester Short, to cycle the press. This signal was apparently premature, as the press crushed her hand, which was thereafter amputated. Plaintiff sued her employer, and also alleged negligence against the retailer of the press, defendant J & G Industries, Inc. (J & G) and the manufacturer of the feeder system, defendant Air Feeds, Inc. (Air Feeds). On May 8, 1996, Jackson Circuit Judge Charles A. Nelson granted summary disposition in favor of defendants J & G and Air Feeds on plaintiff's claims of negligence. Plaintiff appeals as of right. We affirm.

I

At trial, plaintiff argued that defendant J & G had a duty to warn plaintiff that she could be injured by the press. However, the trial court found that J & G had no duty to warn plaintiff that she could be injured by the press because she "knew of the dangers in placing her hands in the pinch zone." On appeal, plaintiff argues that this finding was erroneous because plaintiff's undisputed testimony established that at no time did anyone discuss the danger of placing her hands in the machine. We disagree.

We review a trial court's ruling on a motion for summary disposition de novo. *Pinckney Community Schools v Continental Casualty Co*, 213 Mich App 521, 525; 540 NW2d 748 (1995). Although plaintiff clearly alleged that defendant J & G never warned her about the dangers of operating the press, the trial court properly found that J & G had no duty to warn in this case. According to her deposition, plaintiff had worked for A & W for approximately four to six months before the accident, and knew the press "real well." Furthermore, she had worked "lots of times" with Lester Short on this press. Thus, we agree with the trial court's finding that, based on her experience, knowledge, observations and common sense, plaintiff was aware of the danger posed by the placement of her hands in the press. Defendant J & G had no duty to warn of the open and obvious risks which were fully known to the press operator. *Wessels v E W Bliss Co Inc*, 180 Mich App 440, 445; 447 NW2d 758 (1989).

II

Plaintiff next argues that the trial court erred when it held that J & G had no duty to put a "point of operation" guard on the press prior to its sale. We disagree.

Plaintiff's breach of warranty and negligence claims turn on whether the press which J & G supplied was defective. *Ghrist v Chrysler Group*, 451 Mich 242, 249; 547 NW2d 272 (1996). "A product is defective if it is not reasonably safe for its foreseeable uses." *Id*. Because J & G was merely the supplier of the press, it had less responsibility for safety than that imposed upon the manufacturer. *Id*. at 247. We find that J & G fulfilled its safety responsibility in that the press it supplied was equipped

with the safety device of dual palm buttons. This safety feature would have prevented the typical, and foreseeable, one-operator accident. There is no evidence on this record to show that J & G should have known that plaintiff's employer was going to use two people in tandem to operate the press.

In addition, plaintiff failed to describe a "point of operation" guard or demonstrate how such a device would have prevented plaintiff's injury. It would seem, however, that any such safety device would be designed to prevent the inadvertent cycling or activating of the press. In this case, the machine was not inadvertently or accidentally cycled, but was purposefully activated on plaintiff's command. Thus, there is no reason to believe that a "point of operation" safety device would have prevented the accident in this case. Accordingly, the trial court properly granted summary disposition in favor of defendant J & G.

III

Finally, plaintiff argues that the trial court erred in granting summary disposition to defendant Air Feeds. Plaintiff contends that the automatic feed system provided by Air Feeds was not capable of feeding sixteen-inch lengths of material, as was needed by plaintiff's employer. Plaintiff alleges that two employees were thus necessary to operate the press – one to feed the material and one to cycle the press. Plaintiff reasons that, had the feeding system been compatible, she could have operated the press by herself, and thus avoided injury. We find that plaintiff has failed to present a prima facie case of negligence against Air Feeds.

To establish a prima facie case of negligence, a plaintiff must prove four elements: 1) duty; 2) breach; 3) causation; and 4)damages. *Schultz v Consumers Power Co*, 443 Mich 445, 449; 506 NW2d 175 (1993). "Of all the elements necessary to support recovery in a tort action, causation is the most susceptible to summary determination for it usually amounts to a logical connection of cause to effect." *Davis v Thornton*, 384 Mich 138, 145; 180 NW2d 11 (1970). If the facts bearing on proximate cause are undisputed and if reasonable minds could not differ, then the issue of proximate cause is one for the court. *Rogalski v Tavernier*, 208 Mich App 302, 306; 527 NW2d 73 (1995).

We find that the trial court correctly granted summary disposition in favor of Air Feeds because there was no connection between the company's product and plaintiff's injury. Plaintiff claims that Air Feeds was negligent because it failed to provide plaintiff's employer with a feeder that was capable of automatically feeding sixteen-inch lengths of material into the press at a speed compatible with the speed of the press. However, plaintiff failed to present any proof that Air Feeds assumed a duty or warranted to provide a feeder like the one plaintiff describes.

John Griffiths, the head of A & W Tool and Manufacturing, plaintiff's employer, testified that he had no personal knowledge of any conversations between his company and Air Feeds. Timothy Fullan, A & W's liaison to Air Feeds, had no recollection of conversations with Air Feeds, and he knew of no problems with the feeder. David Laws of Air Feeds denied any knowledge that A & W had any problems with the feeder. In addition, plaintiff's expert admitted that the feeder was not in use at the

time of the accident, and thus could not have contributed to plaintiff's injury. Because of the lack of evidence that Air Feeds promised a particular feeder or that the feeder caused plaintiff's injury, we find that the trial court properly grant summary disposition in favor of Air Feeds.

Affirmed. Defendants-Appellees being the prevailing parties, they may tax costs pursuant to MCR 7.219.

/s/ Richard Allen Griffin
/s/ Martin M. Doctoroff
/s/ Stephen J. Markman