

STATE OF MICHIGAN
COURT OF APPEALS

DAVID ROBERT FISHER,

Plaintiff- Appellant,

v

ALLIED CORPORATION, A&L PARTS and
NATIONAL EQUIPMENT SALE,

Defendants-Appellees.

UNPUBLISHED

October 7, 1997

No. 194728

Washtenaw Circuit Court

LC No. 95-004037 CZ

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendant Allied Corporation, predicated on the expiration of the period of limitations, which for present purposes has been assumed by this Court and the trial court to be one of six years. Plaintiff's cause of action for breach of employment contract and promissory estoppel arose with termination of his employment on January 28, 1988. Suit was actually filed on February 17, 1995, and is therefore untimely unless the period of limitations was tolled by the one year grace period for insanity established by RJA §5851(1).

To toll the statute of limitations, insanity must exist at the time the claim accrues. RJA §5851(1). In opposition to defendants' motion for summary disposition, plaintiff submitted documentary evidence, including numerous affidavits of friends and acquaintances, none of which indicates that at the time his claim accrued on January 28, 1988, plaintiff was suffering from a condition of mental derangement so as to prevent him from comprehending rights he was otherwise bound to know. RJA §5851(2); *Quinto v Cross & Peters*, 451 Mich 358, 367 n 5; 547 NW2d 314 (1996). In the absence of evidence establishing a triable issue of fact with respect to whether plaintiff was deranged at the time his claim accrued, subsequent insanity will not toll the period of limitations, and summary disposition was properly granted. *Asher v Exxon Co*, 200 Mich App 635, 641; 504 NW2d 728 (1993).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad