

STATE OF MICHIGAN  
COURT OF APPEALS

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JACK MASON,

Plaintiff-Appellant,

v

JAMES BROWER,

Defendant-Appellee.

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UNPUBLISHED

January 6, 1998

No. 201695

Livingston Circuit Court

LC No. 96-015212 NI

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

MEMORANDUM.

Plaintiff appeals as of right from a grant of summary disposition to defendant in this negligence action. We reverse. We decide this appeal without oral argument pursuant to MCR 7.214(E).

The trial court erroneously determined that the volunteer doctrine applied in this case. The doctrine generally precludes an individual who volunteers his services from recovering from a master of a servant for injuries sustained due to negligence of the servant. The theory underlying the volunteer doctrine is that no duty is owed a volunteer by such master, other than not to injure the volunteer by wilful or wanton acts. *Diefenbach v Great Atlantic & Pacific Tea Co*, 280 Mich 507, 511-513; 273 NW 783 (1937); *Johnson v E C Clark Motor Co*, 173 Mich 277, 286, 289-290; 139 NW 30 (1912).

Here, plaintiff presented no evidence that plaintiff intruded, voluntarily or otherwise, on an employer-employee or other master-servant relationship. Instead, the record evidence indicated that plaintiff assisted defendant, at defendant's request, in moving defendant's personal possessions from one residence to another with no expectation of any benefit to be bestowed upon plaintiff. Under these circumstances, which did not involve any third-party employer or other master, the volunteer doctrine is inapplicable. Rather, plaintiff was an invitee with respect to defendant, *White v Badalamenti*, 200 Mich App 434, 436; 505 NW2d 8 (1993). Defendant owed plaintiff various duties by virtue of that status, including a duty not to negligently injure him, *Preston v Sleziak*, 383 Mich 442; 175 NW2d 759 (1970). Accordingly, we reverse the grant of summary disposition to defendant and remand this case for further proceedings consistent with this opinion.

Reversed and remanded. We do not retain jurisdiction. Plaintiff, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck