

STATE OF MICHIGAN
COURT OF APPEALS

JERRY VAN EIZENGA as Personal Representative
of the ESTATE OF PATRICIA VAN EIZENGA,
Deceased,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 198819
Kent Circuit Court
LC No. 92-078244 NI

MICHAEL STRALEY and KAREN STRALEY,

Defendants,

and

CHRYSLER CORPORATION,

Defendant-Appellant.

Before: Smolenski, P.J., and Griffin and Bandstra, JJ.

SMOLENSKI, P.J. (dissenting).

I respectfully dissent. Based on the entire record, particularly the testimony of the expert witnesses, I conclude that the facts warranted the imposition of a duty to warn and that plaintiff presented sufficient evidence to support his cause of action based on the negligent design theories of failure to warn and design defect. I would, therefore, affirm the trial court's denial of defendant's motion for judgment notwithstanding the verdict. *Phinney v Perlmutter*, 222 Mich App 513, 524; 564 NW2d 532 (1997).

/s/ Michael R. Smolenski