STATE OF MICHIGAN

COURT OF APPEALS

LEE HAENER,

Plaintiff-Appellant,

v

BILL J. WEST and DONNA PLANK, Personal Representative of the Estate of EARL WAYNE PLANK, Deceased,

Defendants-Appellees.

UNPUBLISHED
May 19, 1998

No. 203474
Wayne Circuit Court
LC No. 96-613345 NI

Before: Neff, P.J., and O'Connell and Young, Jr., JJ.

PER CURIAM.

In this negligence case arising out of an automobile accident, plaintiff Lee Haener appeals as of right from the order granting summary disposition in favor of defendant Donna Plank, personal representative of the estate of Earl Wayne Plank, deceased.[1] We affirm.

We first address Haener's claim that the trial court erred in permitting Plank to amend her answer to add an affirmative defense. This Court will not reverse a trial court's decison on a motion to amend a pleading absent an abuse of discretion that results in injustice. *Phillips v Diehm*, 213 Mich App 389, 393; 541 NW2d 566 (1995). A court should freely grant leave to amend when justice so requires. *Id*. The rules pertaining to the amendment of pleadings are designed to facilitate amendment except where prejudice to the opposing party would result. *Id*. We conclude that Haener has failed to show prejudice on this record. Moreover, contrary to Haener's claim, there is no indication that Plank's request to amend her answer was made in bad faith. We find no abuse of discretion in the trial court's decision.

Haener next argues that the trial court erred in dismissing his lawsuit on collateral estoppel grounds. Again, we disagree. Collateral estoppel precludes relitigation of an issue in a subsequent, different cause of action between the same parties when the prior proceeding culminated in a valid final

judgment and the issue was actually and necessarily determined in the prior proceeding. *Detroit v Qualls*, 434 Mich 340, 357; 454 NW2d 374 (1990). A default judgment will "'be given collateral estoppel effect in a subsequent suit between the parties arising out of the same transaction or occurrence,'" *Braxton v Litchalk*, 55 Mich App 708, 714; 223 NW2d 316 (1974), quoting *Sahn v Brisson*, 43 Mich App 666, 670-671; 204 NW2d 692 (1972), because the entry of a default judgment is equivalent to an admission by the defaulting party to all of the matters well pleaded. *Sahn*, *supra*.

In the present case, Haener was barred by collateral estoppel from maintaining an action against Plank. The default judgment in the previous litigation necessarily determined that Haener was negligent and that this negligence caused the accident. Although Haener maintains that collateral estoppel should not apply here because Earl Plank may also have been negligent, Haener cites no authority for that proposition. This Court will not search for authority to sustain a party's position. *Patterson v Allegan Co Sheriff*, 199 Mich App 638, 640; 502 NW2d 368 (1993). Moreover, this case is factually indistinguishable from *Braxton*, *supra*, where this Court held that the plaintiff was barred from maintaining a negligence action against Bendix Corporation arising from an automobile accident because Bendix had obtained a default judgment against the plaintiff in a previous lawsuit arising from the same accident. *Id*. at 718. The trial court properly granted summary disposition to Plank under MCR 2.116(C)(7).

Affirmed.

/s/ Janet T. Neff
/s/ Peter D. O'Connell
/s/ Robert P. Young, Jr.

[1] Haener obtained a default judgment in the amount of $30,000 against defendant Bill J. West, who is not a party to this appeal.