

STATE OF MICHIGAN
COURT OF APPEALS

KIM M. PIERRON, Personal Representative of the
Estate of ROGER ALLEN PIERRON,

UNPUBLISHED
July 10, 1998

Plaintiff-Appellant,

v

No. 201374
Ingham Circuit
LC No. 96-083052 NO

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

Before: Holbrook, Jr., P.J. and Gribbs and R.J. Danhof*, JJ.

PER CURIAM.

Plaintiff appeals the circuit court order granting defendant summary disposition, MCR 2.116(C)(8), based on a determination that defendant owed no duty to plaintiff's decedent. We affirm.

The trial court did not err in granting defendant's motion for summary disposition. It is well settled that the threshold question, whether a duty exists, is a question of law for the court to decide. *Murdock v Higgins*, 454 Mich 46, 53; 559 NW2d 639 (1997). In this case, we need not address plaintiff's arguments or the trial court's findings concerning defendant's intent. Only where there is a finding of duty does the issue go to the fact-finder for a determination whether, in light of the particular facts of the case, there was a breach of duty. *Id.* Even assuming arguendo that defendant had an internal policy in place to prevent intoxicated employees from driving, and that defendant took partial action here to prevent the intoxicated employee from leaving, as a matter of law defendant did not assume a duty to protect the public at large. *Premo v General Motors*, 210 Mich App 121, 124; 533 NW2d 332 (1995). Plaintiff's argument concerning the existence of a contract goes only to the nature of the relationship between the parties. *Clark v Dalman*, 379 Mich 251, 261; 150 NW2d 755 (1967). The employer-employee relationship between defendant and the intoxicated employee did not give rise to a duty to plaintiff's decedent. *Premo, supra* at 123.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Roman S. Gibbs

/s/ Robert J. Danhof