

STATE OF MICHIGAN
COURT OF APPEALS

JAMES M. CALVARUSO, RONALD WYNSMA,
MARCIA WYNSMA, WILLIAM FRISBIE, and
SUSAN FRISBIE,

Plaintiffs-Appellants,

v

STEELCASE, INC.,

Defendant-Appellee.

UNPUBLISHED
October 2, 1998

No. 204663
Kent Circuit Court
LC No. 95-002813 NP

DAVID J. FRANKLIN, SR., and CINDY M.
FRANKLIN,

Plaintiffs-Appellants,

v

STEELCASE, INC.,

Defendant-Appellee.

No. 204690
Kent Circuit Court
LC No. 96-001099 NP

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

In these consolidated cases, plaintiffs appeal as of right the trial court's summary dismissal of their intentional tort actions against their employer pursuant to MCR 2.116(C)(8). We affirm. We decide these cases without oral argument pursuant to MCR 7.214(E).

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

Plaintiffs' complaints fail to state a claim upon which relief may be granted. MCR 2.116(C)(8).
The allegations set forth in the complaints merely constitute conclusions that are

unsupported by allegations of fact. *Dacon v Transue*, 441 Mich 315, 330; 490 NW2d 369 (1992); *York v 50th District Court*, 212 Mich App 345, 347; 536 NW2d 891 (1995); *Smith v Mirror Lite Co*, 196 Mich App 190, 193; 492 NW2d 744 (1992). Such conclusions are insufficient to permit an inference that defendant specifically intended to injure plaintiffs, i.e., that a supervisory or managerial employee had actual knowledge that injury was certain to occur due to exposure to various toxins used in the workplace. MCL 418.131(1); MSA 17.237(131)(1); *Travis v Dreis & Krump Mfg Co*, 453 Mich 149; 551 NW2d 132 (1996); *McNees v Cedar Springs Stamping Co (After Remand)*, 219 Mich App 217, 224; 555 NW2d 481 (1996); *Smith, supra*. Accordingly, because plaintiffs alleged no facts from which an inference of actionable knowledge could be deduced or drawn, the trial court properly granted summary disposition pursuant to MCR 2.116(C)(8). *Smith, supra* at 194.

Additionally, the trial court did not err when it refused to allow plaintiffs an opportunity to amend their complaints. Their proposed amended complaints submitted to the trial court do not cure the legal deficiencies present in their initial complaints. *Smith, supra*. Plaintiffs were unable to submit for the trial court's inspection complaints that contained specific factual allegations from which it could be inferred that defendant possessed actionable knowledge. Even though plaintiffs had over a year of discovery and had more than a year to digest the discovery material, the evidence before the trial court at the time it resolved the motion for reconsideration established that amendment would not be justified. MCR 2.116(I)(5).

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks