

STATE OF MICHIGAN
COURT OF APPEALS

CAROLE CABLE, Individually and as Next Friend of
SAMANTHA CABLE, and BRUCE CABLE,

UNPUBLISHED
July 13, 1999

Plaintiffs-Appellants,

v

No. 206952
Wayne Circuit Court
LC No. 96-610157 NI

CITY OF WYANDOTTE,

Defendant-Appellee,

and

LOUIS MAGIERA,

Defendant.

Before: Zahra, P.J., and Saad and Collins, JJ.

PER CURIAM.

Plaintiffs appeal as of right from an order granting summary disposition pursuant to MCR 2.116(C)(10) in favor of defendant City of Wyandotte. We affirm.

Samantha Cable, then eight years old, was riding her bicycle near 11th street in Wyandotte. On-street parking was allowed on the west side of 11th street. Samantha apparently decided to cross 11th street and, instead of going to an intersection, she rode onto 11th street from in front of a legally parked vehicle. At the same time Samantha rode onto 11th street, defendant Louis Magiera was driving south on that street. Magiera's vehicle hit Samantha's bicycle. Plaintiffs contend that the City of Wyandotte was negligent for failing to make 11th street reasonably safe for public travel by prohibiting on-street parking.

On appeal, plaintiffs claim that the trial court erred in granting Wyandotte's motion for summary disposition. We disagree. A trial court's grant of summary disposition is reviewed by this Court de novo. *Pickney Community Schools v Continental Casualty Co*, 213 Mich App 521, 525; 540 NW2d 728 (1995). This Court reviews the record in the same manner as the trial court to determine if

the movant is entitled to judgment as a matter of law. *Philips v Deihm*, 213 Mich App 389, 398; 541 NW2d 566 (1995). The initial burden of supporting a motion for summary disposition pursuant to MCR 2.116(C)(10) is on the moving party to specifically identify the matters which have no disputed factual issues by affidavits, depositions, admissions, or other documentary evidence. *Patterson v Kleiman*, 447 Mich 429, 432; 526 NW2d 879 (1994). Then, the party opposing summary disposition has the burden of showing, through evidentiary materials, that a genuine issue of material fact does exist. *Skinner v Square D Co*, 445 Mich 153, 160; 561 NW2d 475 (1994). All reasonable inferences are to be drawn in favor of the nonmoving party. *Paul v Lee*, 455 Mich 204, 210; 568 NW2d 510 (1997).

Governmental agencies are statutorily immune from tort liability while engaging in a governmental function, except for activities that fall within one of the narrowly drawn exceptions. MCL 691.1407; MSA 3.996(107); *Mason v Wayne Co Bd of Comm'rs*, 447 Mich 130, 134; 523 NW2d 791 (1994). The highway exception to governmental immunity requires only that a road be maintained “in reasonable repair so that it is reasonably safe and convenient for public travel.” MCL 691.1402; MSA 3.996(102); *Wechsler v Wayne Co Road Comm*, 215 Mich App 579, 594; 546 NW2d 690 (1996).

In *Pick v Szymczak*, 451 Mich 607, 623; 548 NW2d 603 (1996), the Supreme Court stated, “To be a point of hazard for purposes of the highway exception, the condition must be one that uniquely affects *vehicular* travel on the improved portion of the roadway, as opposed to a condition that generally affects the roadway and its surrounding environment.” Plaintiffs offered documentary evidence to substantiate their position that Magiera’s and Samantha’s visibility of each other was impaired by the on-street parking, and that others in Samantha’s position would face the same dangerous condition. Yet, plaintiffs failed to offer any documentary evidence to show that on-street parking made driving on 11th Street unreasonably dangerous to *vehicular* travel on the improved portion of the street. Therefore, plaintiffs failed to show through documentary evidence a genuine issue of material fact regarding whether defendant Wyandotte, by allowing on-street parking, breached its duty to maintain 11th Street “in reasonable repair so that it is reasonably safe and convenient for public travel,” as required by MCL 691.1402; MSA 3.996(102). *Skinner, supra*, 445 Mich 160. Accordingly, the trial court properly granted defendant’s motion for summary disposition.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Jeffrey G. Collins