

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH HOWITT,

Plaintiff-Appellant,

v

BILLINGS FEED & LAWN, INC. and MALIK
CLINSCALES,

Defendants-Appellees.

UNPUBLISHED

January 30, 2001

No. 216738

Oakland Circuit Court

LC No. 97-002232-NI

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

PER CURIAM.

Plaintiff appeals by right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action to recover damages for injuries sustained in an automobile accident. The trial court dismissed his complaint, finding that plaintiff had failed to prove an objective manifestation of injury to support his complaints of pain.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Gibson v Neelis*, 227 Mich App 187, 189; 575 NW2d 313 (1997). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).

A tortfeasor is liable for noneconomic damages for automobile negligence if the injured person suffered "death, serious impairment of body function, or permanent serious

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

disfigurement.” MCL 500.3135(1); MSA 24.13135(1). A serious impairment of body function is defined as “an objectively manifested impairment of an important body function that affects the person’s general ability to lead his or her normal life.” MCL 500.3135(7); MSA 24.13135(7). Whether a person suffered a serious impairment of body function is a question of law for the court if there is no factual dispute about the nature and extent of the plaintiff’s injuries or there is a factual dispute but it is not material to whether the plaintiff suffered a serious impairment of body function. MCL 500.3135(2)(a); MSA 24.13135(2)(a). Because the statutory definition of serious impairment of body function is the same as the definition adopted in *Cassidy v McGovern*, 415 Mich 483, 505; 330 NW2d 22 (1982), it is appropriate to refer to *Cassidy* and cases decided thereunder in deciding this case. *Kern v Blethen-Coluni*, 240 Mich App 333, 342; 612 NW2d 838 (2000).

The evidence showed that plaintiff had objective manifestations of injury, that being softening of the cartilage in his knee and dislocation of two cervical vertebrae, and that the injury to his knee at least impaired his ability to walk, which is an important body function. However, because plaintiff still could go to work and apparently do everything except walk for long periods of time, do some exercises, and participate in some sports, the evidence does not support a finding that plaintiff’s injuries affected his general ability to lead a normal life. *Franz v Woods*, 145 Mich App 169, 177; 377 NW2d 373 (1985); *Denson v Garrison*, 145 Mich App 516, 520; 378 NW2d 532 (1985); *Sherrell v Bugaski*, 140 Mich App 708, 711; 364 NW2d 684 (1984). While plaintiff’s doctor expressed an opinion to the contrary, the issue was one of law for the court, MCL 500.3135(2)(a); MSA 24.13135(2)(a), and a party’s expert is not qualified to interpret and apply the law, *Reeves v Kmart Corp*, 229 Mich App 466, 475; 582 NW2d 841 (1998); *Hottmann v Hottmann*, 226 Mich App 171, 179; 572 NW2d 259 (1997). Because the trial court reached the right result, albeit for the wrong reason, we will not reverse. *Gray v Pann*, 203 Mich App 461, 464; 513 NW2d 154 (1994).

We affirm.

/s/ Jane E. Markey
/s/ William C. Whitbeck
/s/ Jeffrey L. Martlew