

STATE OF MICHIGAN
COURT OF APPEALS

DAWN M. KRAMER,

Plaintiff-Appellant,

v

FALCON DEVELOPMENT L.L.C. No. 5, d/b/a
AJ'S FAMILY WATER PARK and AJ'S
FAMILY FUN CENTER OF KENTWOOD,

Defendant-Appellee.

UNPUBLISHED
September 4, 2001

No. 225879
Kent Circuit Court
LC No. 98-007186-NZ

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from an order denying her motion for an adjournment and dismissing her case without prejudice for failure to proceed to trial. We affirm.

On appeal, plaintiff contends that the trial court erred in refusing to adjourn the case on the day set for trial so that she could depose her treating physician and undergo an additional medical test. A ruling on a motion for a continuance is discretionary and is reviewed for an abuse of discretion. *Soumis v Soumis*, 218 Mich App 27, 32; 553 NW2d 619 (1996). Under MCR 2.503(D), a court, in its discretion, may grant an adjournment to promote the cause of justice. Generally, a motion for an adjournment must be based on good cause. MCR 2.503(B)(1).

Plaintiff claims that her inability to schedule the deposition of her doctor at an earlier time due to financial constraints amounted to good cause. However, a motion to adjourn because of the unavailability of a witness or evidence must be made as soon as possible after ascertaining the facts. MCR 2.503(C)(1). Here, according to her affidavit, plaintiff became indigent, and thus unable to pay her physician's deposition fee, "shortly after the case was set for trial" five months earlier. Her doctor recommended further medical tests the month before the scheduled trial date. Plaintiff's failure to abide by the timeliness requirement of MCR 2.503(C)(1) and instead wait until the day set for trial to seek an adjournment undermines her good cause argument.

We also reject plaintiff's contention that the adjournment was necessary to promote justice. This argument essentially amounts to an assertion that justice requires forgiving her

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

attorney's false expectation that the case would be administratively postponed. However, counsel had notice of a firm trial date for five months. Defendant was put to the time and expense of preparing for a trial that plaintiff's attorney was admittedly unprepared to litigate. The trial court properly concluded that it would not promote justice to allow attorneys and litigants to assume that a trial date has no meaning. We find no abuse of discretion.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Hilda R. Gage

/s/ Charles H. Miel