

STATE OF MICHIGAN
COURT OF APPEALS

JOYCELYN SANFORD,

Plaintiff-Appellant,

v

SEARS ROEBUCK & COMPANY,

Defendant-Appellee.

UNPUBLISHED
February 24, 2004

No. 243684
Wayne Circuit Court
LC No. 01-113612-NO

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

COOPER, P.J. (*dissenting*).

I respectfully dissent from the majority opinion in this case in that I find plaintiff is entitled to the inference that the CAR contained information adverse to defendant. I believe that such an inference would be sufficient to defeat a MCR 2.116(C)(10) motion and allow the case to proceed to the jury.

When deciding a motion for summary disposition, a court must consider the pleadings, affidavits, depositions, admissions and other documentary evidence submitted in the light most favorable to the nonmoving party.¹ Accordingly, I would find that summary disposition was improperly granted to defendant in this case.

/s/ Jessica R. Cooper

¹ *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999).