

STATE OF MICHIGAN
COURT OF APPEALS

LYNDA LEE SCHIPPERS,

Plaintiff-Appellant,

v

PATRICK DEAN SIPPERLEY,

Defendant-Appellee.

UNPUBLISHED

July 1, 2008

No. 278421

Mason Circuit Court

LC No. 06-000193-NI

Before: Meter, P.J., and Smolenski and Servitto, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition under MCR 2.116(C)(10). Plaintiff challenges the trial court's determination that her motor vehicle accident injury did not constitute a serious impairment of body function within the meaning of MCL 500.3135(7). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews de novo a trial court's order granting or denying summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

A plaintiff may recover noneconomic damages under the no-fault act only where the plaintiff has suffered "death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). The issue whether a person has suffered a serious impairment of body function is a question of law for the trial court to decide if the court determines that there is no factual dispute concerning the nature and extent of the person's injuries or, when there is a factual dispute concerning the nature and extent of the person's injuries, if the dispute is not material to the determination whether the person has suffered a serious impairment of body function. MCL 500.3135(2)(a). "[S]erious impairment of body function" means "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).

To meet the requisite threshold, the impairment of an important body function must affect the course or trajectory of a person's normal life. *Kreiner v Fischer*, 471 Mich 109, 130-131; 683 NW2d 611 (2004). In determining whether the impairment affected the course of the plaintiff's normal life, the court should compare the plaintiff's life before and after the accident and evaluate the significance of any changes on the course of the plaintiff's overall life. *Id.* at 132-133. The court must analyze whether any difference has actually affected the plaintiff's

general ability to conduct the course of his or her life. *Id.* at 133. The court may consider factors such as the nature and extent of the impairment, the type and length of treatment required, the duration of the impairment, the extent of any residual impairment, and the prognosis for eventual recovery. *Id.*

The trial court did not err in granting defendant's motion for summary disposition because plaintiff did not show that her injuries affected the course or trajectory of her normal life. The evidence indicated that plaintiff had two fractures at her seventh cervical vertebrae. However, plaintiff missed less than three months' work while she wore a cervical collar. And there were no additional physician-imposed restrictions or limitations in movement, and physical therapy largely met its goals. An injury need not be permanent to be an impairment of an important body function, but "it must be of sufficient duration to affect the course of a plaintiff's life." *Id.* at 135. The evidence also indicated that plaintiff suffered pain for more than a year after the accident, but in evaluating whether plaintiff's general ability to conduct the course of her normal life was affected, the focus is not on plaintiff's subjective pain and suffering, but on injuries that actually affect the functioning of the body. *Netter v Bowman*, 272 Mich App 289, 295; 725 NW2d 353 (2006). Plaintiff testified about changes in some of her activities. But self-imposed restrictions, even if based on real pain, do not establish residual impairment; the restrictions must be physician-imposed. *Id.* at 295-296. The only evidence of physician-imposed restrictions was restrictions on work for approximately ten weeks after the accident. "[A]n impairment of short duration may constitute a serious impairment of body function if its effect on the plaintiff's life is extensive." *Williams v Medukas*, 266 Mich App 505, 508; 702 NW2d 667 (2005). The evidence in this case did not show an extensive effect on plaintiff's life.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael R. Smolenski
/s/ Deborah A. Servitto