

STATE OF MICHIGAN  
COURT OF APPEALS

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BARBARA JEAN ROSS,

Plaintiff-Appellant,

v

STATE OF MICHIGAN,

Defendant-Appellee.

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UNPUBLISHED

September 21, 2010

No. 291077

Ingham Circuit Court

LC No. 05-000189-MZ

Before: HOEKSTRA, P.J., and JANSEN and BECKERING, JJ.

MEMORANDUM.

In this third-party no-fault insurance action, plaintiff appeals by right an order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We vacate and remand. This case has been decided without oral argument pursuant to MCR 7.214(E).

This case arises out of a January 3, 2004, automobile accident that occurred on US-23 in East Tawas, Michigan. Plaintiff alleges that Michigan State Trooper James Roscewski made a u-turn from the southbound shoulder of US-23 into the northbound lane directly in front of plaintiff, causing a collision. The posted speed limit was 55 mph. Plaintiff's vehicle was totaled, and the damage to the trooper's vehicle was extensive. Plaintiff is seeking recovery for a right wrist fracture that was complicated by delayed healing as well as psychological injuries caused by the accident.

On February 24, 2009, the trial court, utilizing the now-reversed *Kreiner v Fisher*, 471 Mich 109, 130-131; 683 NW2d 611 (2004), rev'd *McCormick v Carrier*, \_\_\_ Mich \_\_\_; \_\_\_ NW2d \_\_\_ (2010), standard, determined that plaintiff could not demonstrate that her impairment affected her general ability to lead her normal life, and granted defendant's motion for summary disposition under MCR 2.116(C)(10). The Supreme Court in *McCormick* established a new standard for evaluating third-party claims under MCL 500.3135(1) and (7). Because the trial court's analysis and decision relied on *Kriener*, we vacate the trial court's February 24, 2009, order and remand for further proceedings consistent with *McCormick's* directives.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Joel P. Hoekstra

/s/ Kathleen Jansen

/s/ Jane M. Beckering