

STATE OF MICHIGAN
COURT OF APPEALS

JULIE TRIEB, as Next Friend of Rachel Treib, a
Minor,

UNPUBLISHED
September 28, 2010

Plaintiff-Appellant,

v

No. 292870
Saginaw Circuit Court
LC No. 08-001168-NI

MARGARET A. POWELL,

Defendant-Appellee.

Before: MURPHY, C.J., and HOEKSTRA and STEPHENS, JJ.

MEMORANDUM.

In this claim brought under the no-fault act, MCL 500.3101 *et seq.*, plaintiff, as next friend of her daughter Rachel Treib, appeals as of right the trial court's order granting summary disposition to defendant. We vacate and remand.

On September 11, 2007, Rachel was struck by a motor vehicle driven by defendant. She sustained, among other injuries, a broken right tibia. Plaintiff sued defendant, asserting that Rachel had suffered a serious impairment of body function. See MCL 500.3135(1), (7). The trial court, using the standards set forth in *Kreiner v Fischer*, 471 Mich 109; 683 NW2d 611 (2004), granted defendant's motion for summary disposition.

This past summer, our Supreme Court decided *McCormick v Carrier*, ___ Mich ___; ___ NW2d ___ (2010). In *McCormick*, the Court overruled *Kreiner* and established new standards for determining whether one has suffered a serious impairment of body function. Because the trial court's analysis and order were based on *Kreiner*, we vacate the order granting summary disposition to defendant and remand for consideration under *McCormick*.

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

/s/ William B. Murphy
/s/ Joel P. Hoekstra
/s/ Cynthia Diane Stephens