

STATE OF MICHIGAN  
COURT OF APPEALS

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DOROTHY MINTER,  
  
Plaintiff-Appellant,

v

CITY OF GRAND RAPIDS and JOHN  
EDWARD-RHEEM WETZEL,

Defendants-Appellees.

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FOR PUBLICATION  
April 12, 2007  
9:00 a.m.

No. 273017  
Kent Circuit Court  
LC No. 03-005719-NI

Official Reported Version

Before: O'Connell, P.J., and Murray and Davis, JJ.

O'CONNELL, P.J. (*concurring*).

I write separately to address the scars above plaintiff's right eye.

Plaintiff, a 67-year-old senior citizen, was lawfully crossing the street when a 4,000-pound police cruiser collided with her, sending her feet straight up in the air and tossing her body onto the pavement to the right of the moving patrol car. The pavement tore the skin above her right eye, and the cut bled profusely. Plaintiff's shoes were found in the road 15 feet from the point of impact, and the cruiser's momentum carried it forward nine feet before it could stop.<sup>1</sup>

The police officer immediately called for an ambulance and began administering first aid. Plaintiff suffered numerous injuries, including the aches and pains one would expect from being struck by a fully equipped, two-ton police car going between 15 and 20 miles an hour. She suffered a broken toe and a cervical strain. She was also treated for a closed head injury and the laceration on her head. Emergency room personnel described the laceration as "a rather large forehead laceration, . . . which is T-shaped over the right eye." It required numerous stitches<sup>2</sup> to close, and its resultant scar is approximately 13 millimeters in length with a "complex of scars"

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<sup>1</sup> All parties agree that the officer is at fault for the accident.

<sup>2</sup> The emergency room report states: "Multiple sutures of 5-0 and 6-0 Vicryl were used to approximate the deep portions of his [sic] wound and multiple sutures of 5-0 and 6-0 nylon were used to approximate the superficial tissue. Two sutures of 6-0 nylon were placed in an interrupted fashion on the eyelid laceration."

above it.<sup>3</sup> Pictures of plaintiff's face reveal a triangular-type area of scar tissue that, according to plastic surgeon James Lawson, could be "excised and closed by buried suture plastic technique to greatly improve their appearance."

Our no-fault system allows a plaintiff to collect damages if a scar is a "permanent serious disfigurement." MCL 500.3135(1). The pictures reveal that these irregularly shaped scars sharply contrast with plaintiff's skin tone. They are readily noticeable to anyone who would look plaintiff in the eye, and it will not abate without serious surgical intervention. See *Kanaziz v Rounds*, 153 Mich App 180, 185-187; 395 NW2d 278 (1986). In my opinion, a genuine factual issue regarding the severity of the scars is created by the pictures and Dr. Lawson's testimony that corrective surgery is necessary to ameliorate the primary scar and the "complex of scars" above it. In other words, the jury should decide if, in fact, the scar is a "permanent serious disfigurement." MCL 500.3135(2)(a).

/s/ Peter D. O'Connell

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<sup>3</sup> A second scar above it is eleven millimeters in length. Added together, plaintiff has twenty-two millimeters of scar tissue above her right eye.