STATE OF MICHIGAN

COURT OF APPEALS

EDDIE DANIELS and FAYE DANIELS,

Plaintiffs-Appellants,

v

GRAND TRUNK WESTERN RAILROAD COMPANY,

Defendant,

and

IMLAY CITY,

Defendant-Appellee.

UNPUBLISHED
April 4, 1997

No. 174971
Ingham Circuit Court
LC No. 92-18627-NI

EDDIE DANIELS and FAYE DANIELS,

Plaintiffs-Appellants,

v

GRAND TRUNK WESTERN RAILROAD COMPANY,

Defendant,

and

IMLAY CITY,

No. 177314
Ingham Circuit Court
LC No. 92-18627-NI

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* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant-Appellee.

Before: MacKenzie, P.J. and Saad and Youngblood,* JJ.

PER CURIAM.

Plaintiffs appeal from the circuit court's orders which granted summary disposition in favor of defendant Imlay City (City) and awarded sanctions of $11,822 against plaintiffs' attorneys. We affirm the order of summary disposition, but reverse the grant of sanctions.

Plaintiff Eddie Daniels drove through a stop sign at a railroad crossing and was struck by a train. He and his wife sued defendant City for failing to place adequate warning signs before the railway crossing. Defendant City moved for summary disposition pursuant to MCR 2.116(C)(7), (8), and (10), which the circuit court granted. Defendant City then moved for sanctions against plaintiffs, pursuant to MCL 600.2591; MSA 27A.2591, for filing a frivolous action, which the circuit court also granted.

I.

Plaintiffs assert that because genuine issues of material fact remain to be resolved at trial, the circuit court erred by granting summary disposition. We disagree. Plaintiffs contends that a sign placed 240 feet away from the railway did not adequately notify all drivers of the railroad crossing ahead. Plaintiff Eddie Daniels testified at deposition that he ran through the stop sign directly in front of the railway crossing. A crossbuck sign to the immediate left of that stop sign clearly marked the intersection as a railroad crossing. The circuit court properly concluded that any negligence in placing a sign 240 feet away from the crossing did not proximately cause Mr. Daniels' injuries. *Skinner v Square D Co*, 445 Mich 153, 174; 516 NW2d 475 (1994).

II.

Plaintiffs argue that the circuit court erred by awarding sanctions against plaintiffs' attorneys. We agree. The circuit court clearly erred by finding plaintiffs' claims frivolous. Though weak, plaintiffs' position was not devoid of arguable legal merit. MCL 600.2591(3)(a)(iii); MSA 27A.2591(3)(a)(iii).

We affirm the circuit court's order of summary disposition and reverse the sanctions.

/s/ Barbara B. MacKenzie
/s/ Henry William Saad