

STATE OF MICHIGAN
COURT OF APPEALS

BRIAN A. MICHAEL,

Plaintiff-Appellant,

v

COY FIELDS,

Defendant-Appellee.

UNPUBLISHED

December 19, 1997

No. 195541

Branch Circuit Court

LC No. 95-007404 NI

Before: O'Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in this negligence action, in which the circuit court determined that reasonable minds could not differ but that plaintiff's injury has failed to surmount the no fault threshold for tort liability under §3135 of the Insurance Code. This case is being decided without oral argument pursuant to MCR 7.214(E).

As this appeal arises in the summary disposition context, factual disputes are for present purposes resolved in plaintiff's favor. Viewing the facts in a light most favorable to plaintiff, his only injury from the automobile accident in question was a broken nose, which was repaired by closed reduction under local anesthetic. All sutures and packing were removed within a week of the accident, subsequent to which plaintiff complains of occasional headaches, a slight change in his voice, and some sinus problems, and tenderness at the bridge of his nose, none of which have prompted him to seek medical attention. The principal body function impaired was breathing, which impairment lasted only a week, and which was mitigated by the fact that plaintiff could breathe through his mouth. This Court agrees with the trial court that reasonable minds could not differ but that these injuries do not surmount the no-fault threshold for tort liability. *DiFranco v Pickard*, 427 Mich 32, 67-68; 398 NW2d 896 (1986); *Kallio v Fisher*, 180 Mich App 516, 518-519; 448 NW2d 46 (1989). Accordingly, summary disposition was properly granted.

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

Affirmed.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Carole F. Youngblood