

STATE OF MICHIGAN  
COURT OF APPEALS

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PEARLENE DEWAR,

Plaintiff-Appellant,

v

GRACE HOSPITAL,

Defendant-Appellee.

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UNPUBLISHED

May 26, 1998

No. 189091

Wayne Circuit Court

LC No. 94-431114 CK

Before: Hood, P.J., and MacKenzie and Doctoroff, JJ.

PER CURIAM.

Plaintiff, a former employee of defendant, brought suit alleging that defendant breached an oral employment contract and discriminated against her because of her age and race in violation of the Civil Rights Act, MCL 37.2101 *et seq.*; MSA 17.428(1) *et seq.* The trial court subsequently granted summary disposition in favor of defendant pursuant to MCR 2.116(C)(10). Plaintiff appeals as of right. We affirm.

On appeal, plaintiff contends that the trial court erred in granting summary disposition pursuant to MCR 2.116(C)(10) because there were genuine issues of material fact as to the existence of an oral just cause employment contract, as well as age and race discrimination. We disagree.

The initial burden of supporting a motion for summary disposition pursuant to MCR 2.116(C)(10) is on the moving party to specifically identify the matters which have no disputed factual issues by affidavits, deposition, admissions, or other documentary evidence. *Patterson v Kleiman*, 447 Mich 429, 432; 526 NW2d 879 (1994). Then, the party opposing summary disposition has the burden of showing that a genuine issue of material fact does exist through evidentiary materials. *Skinner v Square D Co*, 445 Mich 153, 160; 516 NW2d 475 (1994). The existence of a disputed fact must be established by admissible evidence. *Cox v Dearborn Heights*, 210 Mich App 389, 398; 534 NW2d 135 (1995). Affidavits must be made on the basis of personal knowledge and must set forth with particularity such facts that would be admissible as evidence to establish or deny the grounds stated in the motion. *SSC Associates Ltd Partnership v General Retirement System of City of Detroit*, 192 Mich App 360, 364; 480 NW2d 275 (1991). Opinions, conclusory denials, unsworn averments,

and inadmissible hearsay do not satisfy the court rule because disputed facts must be established by admissible evidence. *Id.*

In this case, defendant filed a motion for summary disposition and attached documentary evidence to show that plaintiff was an at-will employee and that she was not discriminated against because of her age or race. Plaintiff therefore had the burden of showing that a genuine issue of material fact existed through admissible evidence. *Cox, supra*, p 398.

The documentation that plaintiff attached to her reply to defendant's motion for summary disposition did not constitute sworn affidavits as defined by MCR 2.119(B). All of plaintiff's documentation constituted unsworn opinions, averments, or inadmissible hearsay in the form of letters and therefore did not satisfy the court rule that disputed facts must be established by admissible evidence. *SSC Associates Ltd Partnership, supra*, p 364. Since plaintiff did not present any admissible evidence to show a genuine issue of material fact, defendant was entitled to judgment in its favor as a matter of law. The trial court properly granted summary disposition for defendant pursuant to MCR 2.116(C)(10).

Affirmed.

/s/ Harold Hood

/s/ Barbara B. MacKenzie

/s/ Martin M. Doctoroff