STATE OF MICHIGAN

COURT OF APPEALS

SHERRIE GOBLE,

Plaintiff-Appellant,

v

HENRY FORD HOSPITAL, an assumed name of HENRY FORD HEALTH SYSTEMS,

Defendant-Appellee,

and

JOHN DOE, R.N.,

Defendant.

UNPUBLISHED
March 9, 1999

No. 204158
Wayne Circuit Court
LC No. 96-635777 NH

Before: Murphy, P.J., and Gage and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of Henry Ford Hospital, an assumed name of Henry Ford Health Systems (hereinafter Henry Ford) pursuant to MCR 2.116(C)(10). We affirm.

Plaintiff filed suit against Henry Ford alleging that while plaintiff was in Henry Ford's emergency room, an unidentified male nurse (hereinafter John Doe) removed an IV from plaintiff's arm and placed it into her right hand. Plaintiff immediately felt a sharp shooting pain in her arm, as well as numbness and tingling when the IV was put into her hand. Plaintiff alleged that she suffered permanent nerve damage in her right hand as a result of the negligent placement of the IV, and that Henry Ford was liable for the tortious acts of its employees, including John Doe.

Henry Ford filed a motion for summary disposition arguing that, because plaintiff failed to produce any expert testimony to establish proximate causation and damages, it was entitled to judgment as a matter of law because there existed no genuine issues of material fact. The trial court granted Henry Ford's motion for summary disposition pursuant to MCR 2.116(C)(10).

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. We disagree. This Court reviews the trial court's grant of summary disposition de novo. *Pinckney Comminity Schools v Continental Casualty Co*, 213 Mich App 521, 525; 540 NW2d 748 (1995). 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, depositions, 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 material. *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 and it is not sufficient to promise to offer factual support at trial to establish the existence of a disputed fact. *Cox v Dearborn Hts*, 210 Mich App 389, 398; 534 NW2d 135 (1995); *Kamalnath v Mercy Memorial Hosp Corp*, 194 Mich App 543, 553; 487 NW2d 499 (1992). All inferences are to be drawn in favor of the nonmoving party. *Paul v Lee*, 455 Mich 204, 210; 568 NW2d 510 (1997).

"To establish medical malpractice, a plaintiff must establish the following elements: (1) the applicable standard of care, (2) breach of that standard, (3) injury, and (4) proximate causation between the alleged breach and the injury." *Weymers v Khera*, 454 Mich 639, 655; 563 NW2d 647 (1997). In this case, although plaintiff submitted the affidavit of a registered nurse, Karen Buhl, to demonstrate these elements, plaintiff conceded at the hearing on the motion for summary disposition that Buhl was not qualified to testify regarding proximate cause. To remedy this defect, plaintiff offered, and the trial court accepted, a medical report prepared by one of plaintiff's treating physicians in which the physician noted that plaintiff's injuries may or may not have been caused by the placement of an IV needle. Specifically, the medical record, prepared by Dr. Jon Knozen, provides, in relevant part, "[w]ith regard to the numbness and tingling on the dorsal portion of the hand, this is possibly due to radial nerve sensory involvement that may have gone along with placement of the IV needle but may not have."

We conclude that the medical record is not sufficient to raise a genuine issue of material fact regarding causation. At best, the medical record indicates an opinion that is one of "pure speculation or conjecture" where "the probabilities are at best evenly balanced." *Garabedian v William Beaumont Hospital*, 208 Mich App 473, 476; 528 NW2d 809 (1995), quoting *Skinner v Square D Company*, 445 Mich 153, 165; 516 NW2d 475 (1994). "The mere possibility that a defendant's negligence may have been the cause, either theoretical or conjectural, of an accident is not sufficient to establish a causal link between the two." *Skinner*, *supra* at 165-166, quoting *Jordan v Whiting Corp*, 396 Mich 145, 151; 240 NW2d 468 (1976). Accordingly, because plaintiff failed to offer any evidence other than pure speculation and conjecture that the conduct of Henry Ford or its agent proximately caused her injury, we conclude that the trial court properly granted summary disposition for Henry Ford.

Plaintiff's argument that she had a qualified expert from which testimony could have been elicited on the issue of causation and that the name of the expert was on a witness list is insufficient to

overcome a motion for summary disposition because it is not sufficient to promise to offer factual support at trial to establish the existence of a disputed fact. *Kamalnath, supra*.

Finally, plaintiff argues that summary disposition was improper because discovery was incomplete at the time the court granted Henry Ford's motion. Plaintiff did not oppose Henry Ford's motion for summary disposition on this basis below. Thus, this issue is not preserved for appeal. *Dresden v Detroit Macomb Hosp Corp*, 218 Mich App 292, 295; 553 NW2d 387 (1996). Further, the discovery deadline had passed, and there is no evidence on this record that plaintiff planned or scheduled any additional discovery. Therefore, plaintiff's claim that summary disposition was granted before discovery was complete is without merit.

Affirmed.

/s/ William B. Murphy
/s/ Hilda R. Gage
/s/ Brian K. Zahra