

STATE OF MICHIGAN
COURT OF APPEALS

DIANE RAMSEY,

Plaintiff-Appellant,

v

JAMES WALTER SPITZNER, JR., H.J. DEATON
& SON, INC., and ALLEGAN COUNTY BOARD
OF ROAD COMMISSIONERS,

Defendants-Appellees.

UNPUBLISHED

March 17, 2000

No. 210077

Allegan Circuit Court

LC No. 96-019729-NI

Before: Hood, P.J., and Holbrook, Jr., and Fitzgerald, JJ.

PER CURIAM.

Plaintiff sued defendants, alleging that their negligence caused an auto accident in which she was injured. Defendants Spitzner and H.J. Deaton & Son, Inc., and defendant Allegan County Board of Road Commissioners (hereinafter Road Commissioners) separately moved for summary disposition of plaintiff's claims. The trial court granted both motions, and plaintiff appeals as of right from both orders. We affirm.

Plaintiff was seriously injured when her vehicle collided with a gravel truck driven by defendant Spitzer. The accident occurred at the "T" intersection formed where the north and south running 21st Street intersects the east and west running Jefferson Road. The flow of traffic through the intersection is controlled by traffic signs. While westbound traffic on Jefferson is not required to stop, eastbound traffic is required to stop at the intersection. Just below the stop sign that regulates the eastbound Jefferson traffic is a yellow rectangular sign which reads, "Cross Traffic Does Not Stop."

At the time of the accident, plaintiff was traveling eastbound and defendant Spitzner was traveling westbound on Jefferson Road. As defendant Spitzer was turning left onto southbound 21st Street, he collided with plaintiff who was attempting to pass through the intersection at the same time. Defendant Spitzner testified that he was decelerating as he approached the intersection, preparing to make a left turn. Defendant Spitzner also testified that he saw plaintiff's car slow down as it approached the intersection, but he did not see it stop. Spitzner's son, a front-seat passenger in the gravel truck, testified that plaintiff's car failed to stop before entering the intersection. Plaintiff's

granddaughter, a front-seat passenger in plaintiff's vehicle, testified that plaintiff may have stopped at the stop sign, or she may have performed a "rolling stop." Plaintiff retained no memory of the facts surrounding the accident.

Whether plaintiff came to a full stop or merely slowed, she did enter the intersection in the path of the oncoming gravel truck. Plaintiff's granddaughter testified that the gravel truck was in clear view, with its left turn signal activated, when plaintiff entered the intersection. The investigating police officer testified that the gravel truck was on the proper side of the road, in its proper lane of travel. He concluded that plaintiff was at fault in causing the accident, and plaintiff was issued a citation for failing to yield the right of way.

Plaintiff contends that the trial court erred in granting summary disposition to the defendants because there remained genuine issues of material fact regarding the individual defendants' negligence or comparative negligence. We disagree. "This Court reviews decisions on motions for summary disposition de novo." *Auto Club Ins Ass'n v Sarate*, 236 Mich App 432, 434; 600 NW2d 695 (1999).

A motion pursuant to MCR 2.116(C)(10) tests the factual basis underlying a plaintiff's claim. MCR 2.116(C)(10) permits summary disposition when, except for the amount of damages, there is no genuine issue concerning any material fact and the moving party is entitled to damages as a matter of law. A court reviewing such a motion must consider the pleadings, affidavits, depositions, admissions, and any other evidence in favor of the opposing party and grant the benefit of any reasonable doubt to the opposing party. [*Stehlik v Johnson (On Rehearing)*, 206 Mich App 83, 85; 520 NW2d 633 (1994).]

Plaintiff first argues that she presented material questions of fact with regard to whether defendant Spitzner breached his duty to exercise reasonable care when turning left from Jefferson onto 21st Street. We disagree. After reviewing the evidence in the appropriate light, we conclude that plaintiff failed to establish that a genuine issue of disputed facts existed with regard to defendant Spritzer's actions. As the favored driver, defendant Spitzer had the right to assume that plaintiff, the disfavored driver, would yield as required by the traffic signs. Further, the evidence does not support the conclusion that defendant Spitzer failed to maintain a proper lookout, or in any other way failed to exercise reasonable care.

We also reject plaintiff's assertion that genuine issue of material fact exists with regard to causation. Although a causation theory must have some basis in established fact,

a basis in only slight evidence is not enough. Nor is it sufficient to submit a causation theory that, while factually supported, is, at best, just as possible as another theory. Rather, the plaintiff must present substantial evidence from which a jury may conclude that more likely than not, but for the defendant's conduct, the plaintiff's injuries would not have occurred. [*Skinner v Square D Co*, 445 Mich 153, 164-165; 516 NW2d 475 (1994).]

We conclude that plaintiff failed to satisfy this burden. Accordingly, we conclude that the trial court did not err in granting summary disposition under MCR 2.116(C)(10) to defendants Spitzer and H.J. Deaton & Son.

Finally, we conclude that the trial court's grant of summary disposition to defendant Road Commission was also proper. Plaintiff argues that the intersection was defective in several ways. First, plaintiff argued that the vegetation adjacent to the intersection's southwest corner blocked her view of 21st Street, and she was forced to pull past the stop sign in order to look for oncoming traffic. Even if this were true, plaintiff conceded that the gravel truck did not collide with her because she pulled ahead of the stop sign to look for traffic approaching on 21st Street. Further, while the vegetation may have blocked plaintiff's view of northbound traffic on 21st Street, there is no evidence that it interfered with her view of oncoming traffic on westbound Jefferson.

Plaintiff also argues that design defects, inadequate signs and lack of traffic control lights made the intersection so confusing that she did not know the oncoming gravel truck had the right-of-way. Not only are these conclusions unsupported by the evidence, but we note that plaintiff admitted below she was aware from personal experience that traffic traveling in that direction was not required to stop at the intersection.

Affirmed.

/s/ Harold Hood
/s/ Donald E. Holbrook, Jr.
/s/ E. Thomas Fitzgerald