STATE OF MICHIGAN

COURT OF APPEALS

CATHERINE H. McCOTTER,

Plaintiff-Appellant,

v

OAKLAND SCHOOLS and GREGORY QUISDALLA,

Defendants-Appellees.

UNPUBLISHED
February 19, 2002

No. 221895
Oakland Circuit Court
LC No. 98-010567

Before: Cavanagh, P.J., and Neff and B. B. MacKenzie*, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order granting defendants summary disposition in this case involving her claim for extra compensation. We affirm.

We review de novo a grant of summary disposition. *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999). A motion for summary disposition brought under MCR 2.116(C)(10) tests whether there is factual support for a claim. *Id*. When deciding a motion for summary disposition, we must consider the pleadings, affidavits, depositions, admissions and other documentary evidence submitted in the light most favorable to the nonmoving party. *Id*. The motion should be granted when there is no genuine issue as to any material fact or when a party is entitled to judgment as a matter of law. MCR 2.116 (C)(10).

Plaintiff challenges the trial court's decision to grant summary disposition pursuant to MCR 2.116(C)(10) despite defendants' failure to provide documentary evidence in support of its motion, and also challenges the lack of an opportunity to amend her complaint. It does not appear from a review of the record, however, that plaintiff ever moved or attempted to amend her complaint, and offered no more than a cursory remark in her response to defendants' motion that she should be allowed to amend her complaint "to add parties and equitable claims." Plaintiff does not identify what parties and claims would be added, and there is no evidence that the trial court considered the matter. This issue has therefore not been preserved for appeal and it is not proper for us to resolve it. *Candelaria v B C General Contractors, Inc*, 236 Mich App 67, 83; 600 NW2d 348 (1999).

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

Plaintiff also suggests that summary disposition was improper because defendants did not support their motion with documentary evidence as required by MCR 2.116(G)(3)(b). However, a review of the lower court record reveals that defendants' motion is replete with references to plaintiff's deposition and attached exhibits, and the court rule does not require defendants to *attach* documentary evidence. Thus, plaintiff's claim is unsupported.

Plaintiff asserts that her existing contract was breached when defendants required her to carry a caseload exceeding twenty-five students, the limit established by AC R340.1749(2): "The teacher consultant shall carry an active caseload of not more than 25 handicapped students." Nothing in the contract explicitly limited the number of students assigned to plaintiff, but she argues that her contract incorporated the rule by its language, "This Contract is subject to all appropriate Federal and State statutes, rules and regulations." The rules include provisions under which plaintiff could have filed a complaint about her caseload, AC R340.1851-340.1853, but nothing in the rules or the contract supports plaintiff's claim that she had a right to extra compensation if her caseload was excessive.

Furthermore, plaintiff's contract provided that it "constitutes the complete understanding, duties, rights, and agreements of the parties relative to employment of Teacher" and that "no other promises or agreements, written or oral, relative to his/her employment and/or continuation of employment exist." The trial court aptly noted, "A written agreement signed by the plaintiff which contains an integration clause stating there were no other agreements between [the] parties foreclosed the plaintiff's claims for additional compensation not set forth in the contract." See *UAW-GM Human Resources Center v KSL Recreation Corp*, 228 Mich App 486, 496-497; 579 NW2d 411 (1998). We therefore find that defendants did not breach the contract when they increased plaintiff's workload.

Plaintiff alternatively argues that her communication with defendant Quisdalla[1] resulted in a binding agreement to pay her "extra-equitable" compensation that was either a modification of her existing contract or a second, separate contract. We disagree.

A valid contract requires mutual assent on all essential terms. *Eerdmans v Maki*, 226 Mich App 360, 364; 573 NW2d 329 (1997). An essential element of a contract is legal consideration. *Yerkovich v AAA*, 461 Mich 732, 740; 610 NW2d 542 (2000). In this case, plaintiff presented evidence that Quisdalla told her in e-mail messages he had "recommended that we give you a stipend, amount to be determined," and that he "support[ed] some type of compensation" and after receiving direction from the human resources staff would "be able to determine what is equitable in regard to additional compensation." Although the record is silent regarding any earlier oral promises Quisdalla may have made, plaintiff states that the e-mails reduced his oral promises to writing and we accept that. *Ritchie-Gamester, supra* at 76. These "promises" are far too vague to establish an agreed-on dollar amount. Plaintiff's disappointment at the offer of $2,000 demonstrates the absence of any "meeting of the minds" about what would constitute "equitable" pay. In addition, these "promises" do not meet the statutory requirement that teacher contracts must be in writing and must be signed. MCL 380.1231.

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[1] Documents in the record indicate that the correct spelling of defendant's name is "Gwisdalla," but we use "Quisdalla" to be consistent with the pleadings.

Furthermore, plaintiff's contract clearly states that:

> Teacher's expectations in relation to possible renewal, non renewal and termination of this Contract, and all other aspects of the employment relationship, are exclusively controlled and determined by the provisions of this Contract and that no person other than the Board of Education for the School District . . . has any authority whatsoever to add to, expand upon, restrict or in any manner modify said expectations and provisions.

Plaintiff argues that Quisdalla was authorized to promise her extra compensation because MCL 380.1231 provides that the superintendent or his representative can sign a teacher's contract. However, under the express terms of the contract, Quisdalla was not authorized to either modify the written contract, nor could there exist a second contract embodying terms pertaining to plaintiff's employment with the school district. We therefore find that no modification to the existing contract or second contract was made.

We also decline to grant equitable relief to plaintiff because the work plaintiff did was covered under her existing contract. Evidence of antecedent understandings and negotiations, whether parol or otherwise, is not admissible where, as here, the parties to a contract have expressed their intention that the writing constitute the complete and accurate integration of that contract. *Michigan Nat'l Bank v Laskowski,* 228 Mich App 710, 714-715; 580 NW2d 8 (1998). And a contract will not be implied when a written contract covers the same material. *Scholz v Montgomery Ward & Co, Inc,* 437 Mich 83, 93; 468 NW2d 845 (1991). Because there was already a written contract providing for plaintiff's salary, there can be no implied contract, and thus no recovery for unjust enrichment or promissory estoppel. *Martin v East Lansing School Dist,* 193 Mich App 166, 177-180, 483 NW2d 656 (1992). To support a claim of estoppel, the alleged promise must be definite and clear. *Kamalnath v Mercy Memorial Hosp Corp,* 194 Mich App 543, 552; 487 NW2d 499 (1992). Here, while plaintiff might possibly have made a claim for the $2,000 stipend promised in this case, there is no evidence to support entitlement to more. In addition, because plaintiff was already being paid under the written contract for her services, she is not entitled to seek recovery in quantum meruit. *Id.* at 551. Finally, plaintiff did not make out a case for fraud in the inducement or fraudulent misrepresentation because she alleges no false material misrepresentation (such as a certain dollar amount) regarding future conduct that she relied on in doing the "extra" work. *Mitchell v Dahlberg,* 215 Mich App 718, 723; 547 NW2d 74 (1996); *Samuel D Begola Services, Inc v Wild Bros,* 210 Mich App 636, 639; 534 NW2d 217 (1995).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Janet T. Neff
/s/ Barbara B. MacKenzie