

STATE OF MICHIGAN
COURT OF APPEALS

LESLIE LOUCH and VICKY LOUCH,

Plaintiffs-Appellants/Crossappellee,

v

VALLEY MECHANICAL SERVICES, INC., and
WILLIAM GROSSKOPF,

Defendants-
Appellees/Crossappellants.

UNPUBLISHED
November 30, 2004

No. 250427
Midland Circuit Court
LC No. 02-004700-NO

Before: Donofrio, P.J., and Markey and Fort Hood, JJ.

MEMORANDUM.

Plaintiffs appeal as of right from the trial court's order granting defendants' motion for summary disposition.¹ We affirm.

We review summary disposition decisions de novo. *In re Capuzzi Estate*, 470 Mich 399, 402; 684 NW2d 677 (2004). The primary purpose of the worker's compensation act is to provide benefits to employees suffering from work related injuries by allocating the burden of the payments to the employer and ultimately the consumer. *Eversman v Concrete Cutting & Breaking*, 463 Mich 86, 92; 614 NW2d 862 (2000). Irrespective of fault, an employee who suffers from an injury arising out of and in the course of employment is eligible for compensation. *Id.* The employer is immunized from tort liability unless an intentional tort is involved. *Id.* An intentional tort occurs "only when an employee is injured as a result of a deliberate act of the employer and the employer specifically intended an injury." MCL 418.131(1). Injury is certain to occur when there is no doubt that it will occur, and laws of probability are insufficient to prove certainty. *Bock v General Motors Corp*, 247 Mich App 705, 711; 637 NW2d 825 (2001). Exposure to harmful substances in the workplace does not satisfy the intentional tort exception where the exposure demonstrates a reckless disregard for the health, safety, and welfare of the employees. *Id.* at 712. Moreover, this standard is not a gross negligence standard. *Id.* Accordingly, the trial court properly granted defendants' motion for summary disposition. *Bock, supra*.

¹ Based on our disposition of the original claim of appeal, we need not address the crossappeal.

Affirmed.

/s/ Pat M. Donofrio

/s/ Jane E. Markey

/s/ Karen M. Fort Hood