

STATE OF MICHIGAN
COURT OF APPEALS

ESTATE OF EDWARD CROCKER, by JAMIE
LYNN SHELTON, Personal Representative,

UNPUBLISHED
February 22, 2018

Plaintiff/Counterdefendant-
Appellant,

v

MELVINDALE MOBILE HOME PARK, INC.,

Defendant/Counterplaintiff-
Appellee.

No. 335887
Wayne Circuit Court
LC No. 15-011817-NO

Before: JANSEN, P.J., and SERVITTO and SHAPIRO, JJ.

JANSEN, P.J. (*concurring*)

I concur in the result only.

I disagree with the majority's conclusion that plaintiff's testimony, offered to prove that Crocker gave notice of the dangerous condition, was not hearsay. The statements made by Crocker, the declarant, were not made while Crocker was under oath, and are offered to prove the truth of the matter, that defendant had notice of the dangerous condition or defect. MRE 801(c).

However, I agree with the majority that plaintiff provided sufficient evidence to create a question of fact that the alleged defect was the result of defendant's active negligence, and therefore, the notice requirement is nevertheless satisfied. I would reverse on that basis alone.

/s/ Kathleen Jansen