



Court of Claims of Ohio

The Ohio Judicial Center
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ANNAMAE B. CATTERSON, et al.

Plaintiffs

v.

THE OHIO STATE UNIVERSITY BOARD OF TRUSTEES

Defendant

Case No. 2010-02863

Judge Alan C. Travis

ENTRY GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

{¶1} On June 10, 2011, plaintiffs filed a motion for partial summary judgment pursuant to Civ.R. 56(A). On July 19, 2011, defendant filed a response.¹ The motion is now before the court for a non-oral hearing pursuant to L.C.C.R. 4(D).

{¶2} Civ.R. 56(C) states, in part, as follows:

{¶3} "Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." See also

¹In its response, defendant states that it has nothing to present to the court on the issue of liability.

Gilbert v. Summit County, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶4} On February 27, 2008, plaintiff² sustained personal injury when the vehicle she was driving was struck by a truck driven by Thomas Reeb, an employee of defendant's veterinary hospital. Plaintiff and her husband, Melvin Catterson, assert that they are entitled to judgment as a matter of law on the issue of liability on their claims of both negligence and loss of consortium.

{¶5} In support of their motion, plaintiffs filed the deposition of Thomas Reeb, wherein Reeb states that on the day of the accident, he was driving a truck during the course and scope of his employment at The Ohio State University Veterinary Teaching Hospital; that he was headed southbound on Ostrander Road near its intersection with U.S. Route 36; that Ostrander Road was controlled by stop signs at the intersection for both northbound and southbound traffic; that U.S. Route 36 had no stop signs for either eastbound or westbound traffic; and that he was attempting to turn left onto U.S. Route 36 eastbound when he collided with plaintiff's vehicle.

{¶6} Plaintiff also filed an affidavit wherein she avers that she and her husband were married and living together at the time of the accident.

{¶7} Construing the evidence most strongly in defendant's favor, the court finds that the only reasonable conclusion to be drawn is that plaintiff had the right-of-way at the intersection, that Reeb failed to yield to plaintiff's vehicle, that plaintiff sustained personal injury as a result of the accident, and that Reeb was acting in the course and scope of his employment with defendant when the accident occurred. In addition, plaintiffs have established that they were married at the time of the accident. Therefore, the court finds that there is no genuine issue as to any material fact and that plaintiffs are entitled to judgment as a matter of law on the issue of liability as to their claims of

²"Plaintiff" shall be used to refer to Annamae Catterson throughout this decision.

both negligence and loss of consortium. Accordingly, plaintiffs' motion for partial summary judgment is GRANTED and judgment is rendered in favor of plaintiffs on the issue of liability.

ALAN C. TRAVIS
Judge

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HTS/dms
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