

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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KAREN SUE ECKMAN,

Plaintiff-Appellant,

v

JEANETTA MAE DEWEY and WILLIAM  
DEWEY,

Defendants-Appellees.

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UNPUBLISHED

October 26, 2004

No. 248512

Ingham Circuit Court

LC No. 01-094242-NI

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

PER CURIAM.

Plaintiff Karen Sue Eckman appeals as of right the trial court's order granting summary disposition to defendants Jeanetta Mae Dewey and William Dewey. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

On September 21, 1998, Eckman's vehicle collided with the Deweys' vehicle. Eckman went to the emergency room complaining of back, neck, and arm pain. On September 20, 2001, Eckman filed suit, alleging that the injuries she sustained in the accident constituted a serious impairment of body function. The Deweys moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that Eckman did not suffer an objectively manifested injury that affected her general ability to lead her normal life. In their motion, the Deweys noted that Eckman's medical history showed that she had made complaints of neck and back pain since 1992, that she had been diagnosed with fibromyalgia, and that she had received numerous prescriptions for narcotic pain medication. On various occasions during this period, physicians had refused to prescribe further narcotic pain medication for Eckman. The Deweys further observed in their motion that two months after the accident, Eckman underwent an independent medical examination by Dr. Devries, who opined that the accident did not impair her musculoskeletal system. X-rays and an MRI performed in 2000 after Eckman fell down a flight of stairs and in 2001 demonstrated mild disc bulging, but no herniation. Several of the physicians with whom Eckman treated expressed concern about her use of narcotic pain medication, and refused to prescribe such medication after she consumed more than the prescribed dosage. An MRI taken in 2002 showed bulging discs at several locations in Eckman's cervical spine. In their motion, the Deweys concluded that Eckman suffered no objectively manifested injury as a result of the accident.

In response, Eckman submitted an affidavit from Dr. Blakeney, who indicated that Eckman suffered from a herniated disc and had limited range of motion, and opined that Eckman's current condition was consistent with the injuries that might be expected to occur in a rollover accident. Dr. Blakeney opined that the accident was likely to have caused or accelerated the degenerative process in Eckman's neck and spine. Eckman claimed that she had been unable to hold steady employment since the accident, and that her condition had forced her to give up recreational activities such as biking and swimming.

The trial court held a hearing and granted the Deweys' motion for summary disposition. The trial court noted that no medical evidence showed that any physician treated Eckman for a specific injury following the accident. Moreover, the trial court found that Eckman's assertion that her general ability to lead her normal life had been negatively affected by the accident was simply not credible in light of the documented medical evidence that showed that for several years prior to the accident she claimed to various physicians that her neck and back problems were so severe that she needed a constant supply of narcotic pain medication.

## II. Summary Disposition

### A. Standard Of Review

We review de novo a trial court's decision on a motion for summary disposition.<sup>1</sup>

### B. Serious Impairment Of A Body Function

To recover noneconomic injuries suffered in a motor vehicle accident, a plaintiff must have suffered death, serious impairment of body function, or permanent serious disfigurement.<sup>2</sup> A serious impairment of body function is "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life."<sup>3</sup> For an impairment to be objectively manifested, there must be a medically identifiable injury or a condition that has a physical basis.<sup>4</sup> Whether a person has suffered a serious impairment of body function is a question of law for the court if there is no factual dispute concerning the nature and extent of the injuries, or if there is a factual dispute concerning the nature and extent of the injuries but the dispute is not material to whether the plaintiff has suffered a serious impairment of body function.<sup>5</sup>

Determining whether a person is generally able to lead his or her normal life requires considering whether the objectively manifested impairment has affected the course of the

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<sup>1</sup> *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

<sup>2</sup> MCL 500.3135(1).

<sup>3</sup> MCL 500.3135(7).

<sup>4</sup> *Jackson v Nelson*, 252 Mich App 643, 652-653; 654 NW2d 604 (2002).

<sup>5</sup> MCL 500.3135(2)(a).

person's life.<sup>6</sup> The trial court must examine how, to what extent, and for how long the plaintiff's life has been affected by the impairment.<sup>7</sup> The trial court must examine the plaintiff's life before and after the accident, and consider the significance of the affected aspects on the course of the plaintiff's life.<sup>8</sup> To determine whether the plaintiff's general ability to lead his or her normal life has been affected by the objective impairment, the court may consider factors such as the nature and extent of the impairment, the type and length of treatment required, the duration of the impairment, the extent of any residual impairment, and the prognosis for eventual recovery.<sup>9</sup>

Having reviewed the record, we conclude that the trial court did not err in granting the motion for summary disposition because the evidence did not support Eckman's claim that injuries from the accident affected her general ability to lead her normal life. An examination of Eckman's "normal life" before the accident indicates that, for several years, Eckman had told a series of physicians that her neck and back problems were so severe that she needed a constant supply of narcotic pain medication, and that the pain prevented her from working or engaging in other activities. Because Eckman did not show that her life was significantly different before and after the accident, she did not make out a prima facie case that she suffered a serious impairment of body function.<sup>10</sup> Therefore, we conclude that the trial court did not err in granting the Deweys' motion for summary disposition.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra

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<sup>6</sup> *Kreiner v Fischer*, 471 Mich 109, 130-131; 683 NW2d 611 (2004).

<sup>7</sup> *Id.* at 131.

<sup>8</sup> *Id.* at 132-133.

<sup>9</sup> *Id.* at 133.

<sup>10</sup> See *id.* at 132-133.