

STATE OF MICHIGAN
COURT OF APPEALS

JENNIFER MACUGA,

Plaintiff-Appellant,

v

NAGHAM YALDO KATOULA,

Defendant-Appellee.

UNPUBLISHED

January 12, 2006

No. 253974

Macomb Circuit Court

LC No. 2003-000843-NI

Before: O’Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

In this automobile negligence action, plaintiff appeals as of right the trial court’s determination that summary disposition of plaintiff’s claim was appropriate because plaintiff failed to establish that she suffered a serious impairment of body function as required by MCL 500.3135(1). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews de novo the trial court’s decision whether to grant summary disposition. *Moore v Cregeur*, 266 Mich App 515, 517; 702 NW2d 648 (2005). Summary disposition is appropriate under MCR 2.116(C)(10) if “there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.” When determining whether there is a genuine issue as to any material fact, the trial court must consider the evidence presented by the parties in the light most favorable to the party opposing the motion. *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).

Under MCL 500.3135, a person is subject to tort liability for noneconomic loss caused by his use of a motor vehicle “only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.” A serious impairment of body function is defined as “an objectively manifested impairment of an important body function that affects the person’s general ability to lead his or her normal life.” MCL 500.3135(7). Where, as here, no material fact question exists regarding the nature and extent of the plaintiff’s injuries, whether plaintiff’s injuries constitute a serious impairment of body function is a matter of law. MCL 500.3135(2)(a); *Moore, supra* at 518.

Determining whether plaintiff is generally able to lead her normal life requires considering whether she is, “for the most part” able to lead her life. *Kreiner v Fischer*, 471 Mich 109, 130-131; 683 NW2d 611 (2004). “Although some aspects of a plaintiff’s entire normal life

may be interrupted by the impairment, if, despite those impingements, the course or trajectory of the plaintiff's normal life has not been affected, then the plaintiff's 'general ability' to lead his normal life has not been affected and he does not meet the 'serious impairment of body function' threshold." *Id.* at 131.

We agree with the trial court's determination that any injury plaintiff may have suffered as a result of the accident in question has not affected her general ability to lead her normal life and, therefore, does not meet the "serious impairment of body function" threshold. Plaintiff has been employed continuously and successfully in her chosen field since the accident. While she has missed some work to attend doctor's appointments, she has not missed any work due to the effects of her injuries except for a one-week absence from an internship at the time of the accident. Although plaintiff stated that there are some activities that she cannot perform without pain and discomfort, she did not testify that she cannot perform the activities. Indeed, she still participates in many of the same recreational activities now as she did prior to the accident. She has also taken two trips since the accident, one to Las Vegas and the other to the east coast, where plaintiff spent five days driving around Delaware, Maryland, and Philadelphia with a friend. She still exercises three to five times a week, doing sit-ups and walking two to three miles, and still performs most household chores. Furthermore, no doctor has placed restrictions on her activities as a result of her injuries. Consequently, we conclude that summary disposition was appropriately granted.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot