

STATE OF MICHIGAN  
COURT OF APPEALS

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DERRICK GAVINS,

Plaintiff-Appellant,

v

CITY OF DETROIT,

Defendant-Appellee.

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UNPUBLISHED

March 6, 2007

No. 270162

Wayne Circuit Court

LC No. 03-336056-NF

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court's order granting summary disposition in favor of defendants. We affirm.

A motion for summary disposition under MCR 2.116(C)(7) tests in relevant part whether a claim is barred because of the presence of a valid release. Summary disposition is appropriate if the moving party is entitled to judgment as a matter of law. *Lavey v Mills*, 248 Mich App 244, 249; 639 NW2d 261 (2001). A trial court's interpretation of a contract, such as the release contract at issue, is a question of law that is reviewed de novo. See *Bandit Industries, Inc v Hobbs Int'l, Inc (After Remand)*, 463 Mich 504, 511; 620 NW2d 531 (2001). When this Court reviews a motion for summary disposition granted pursuant to MCR 2.116(C)(7), it must accept the plaintiff's well-pleaded allegations as true, unless contradicted by documentary evidence submitted by the parties, and construe them favorably to the plaintiff. *Lavey, supra* at 250.

The City of Detroit employed plaintiff as a bus driver. On December 17, 2001, plaintiff was involved in an automobile accident while on duty operating a bus. In March of 2003, plaintiff filed a workers' compensation claim against Detroit for the injuries allegedly arising out of the accident. On November 3, 2004, in exchange for consideration, plaintiff executed a release on his workers compensation claim. The relevant portion of the release stated:

In consideration and receipt of the settlement, the employee for himself, his family, dependents, executors, administrators, heirs, and assigns fully releases and discharges his employer City of Detroit, its officers, directors, and employees from any and all liabilities, claims, causes of actions, including but not limited to any tort action, civil rights, handicapped claims, wrongful discharge claims, and any other claims arising out of and in the course of employment, that claimant

does this knowingly, voluntarily, after consultation with HIS lawyer, and has had a reasonable opportunity to deliberate on this settlement.

On October 30, 2003, plaintiff filed a breach of contract action against defendant, seeking no-fault benefits for the injuries occurring in the December 2001 accident.<sup>1</sup> Defendant moved for summary disposition on March 28, 2006, based upon the presence of the release. MCR 2.116(C)(7). The trial court granted the motion on April 21, 2006.

Plaintiff now argues that the trial court incorrectly granted the motion for summary disposition because his claim fell outside the scope of the release, and because he never intended the release to invalidate his no-fault claim.

The scope of a release is governed by the intent of the parties as it is expressed in the release. *Collucci v Eklund*, 240 Mich App 654, 658; 613 NW2d 402 (2000). If the release is unambiguous, this Court must ascertain the parties' intentions from the plain, ordinary meaning of the language of the release. *Id.* A release is ambiguous only if its language is reasonably susceptible to more than one interpretation. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 13; 614 NW2d 169 (2000). The fact that the parties disagree about the meaning of a release does not, by itself, establish ambiguity. *Id.* at 14. "If the terms of the release are unambiguous, contradictory inferences become 'subjective, and irrelevant,' and the legal effect of the language is a question of law to be resolved summarily." *Gortney v Norfolk & Western RR Co*, 216 Mich App 535, 541; 549 NW2d 612 (1996) (citations omitted).

The scope of the release in this matter is not ambiguous. The release clearly covers "any and all liabilities, claims" or "causes of action," including tort actions that arise "out of and in the course of employment." That language encompasses plaintiff's no-fault claim. The word "all" is the broadest of classifications that leaves no room for exceptions. *Romska v Opper*, 234 Mich App 512, 515-516; 594 NW2d 853 (1999). And, it cannot be disputed that the cause of action arose out of and in the course of plaintiff's employment. Under the workers' compensation statute, MCL 418.301(1), which grants employees compensation for personal injuries "arising out of and in the course of their employment," an employee is granted the right to compensation when the nexus between the employee's injury and employment is sufficient to assume that the injury was a circumstance of the employment. *Thomason v Contour Fabricators, Inc*, 255 Mich App 121, 124; 662 NW2d 51 (2003), modified 469 Mich 960 (2003). The necessary nexus exists if the injury resulted from the work itself or from the stresses, tensions, and associations of the employee's working environment, whether human or material. *Calovecchi v State*, 223 Mich App 349, 352; 566 NW2d 40 (1997). It is apparent that, when the accident occurred in this case, plaintiff was engaged in his duties driving a bus for the City of Detroit. Therefore, plaintiff's no-fault claim was a liability based upon an injury from the work itself. It arose out of and in the course of his employment and was covered by the release.

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<sup>1</sup> Defendant City of Detroit is a self-insured entity that provides no-fault insurance coverage to some of its employees.

Plaintiff argues that he never intended to relinquish his right to pursue no-fault claims as part of his redemption agreement, and that the release should not cover no-fault claims because it was created as part of a workers' compensation redemption agreement. The construction of a redemption agreement is generally governed by the same rules as other releases. *Beardslee v Michigan Claim Services, Inc*, 103 Mich App 480, 485; 302 NW2d 896 (1981). Plaintiff does not offer any evidence that supports that he did not intend the release to apply to no-fault claims. The intent of the parties to the release is discernable from the language of the release; the parties intended the release to apply to all claims arising out of and in the course of plaintiff's employment. As mentioned above, there can be no broader classification than the word "all," which leaves no room for exceptions. *Romska, supra* at 515-516. The release did not contain exceptions for no-fault claims, or any other type of claim. Because the text of the release was clear, the parties' intentions must be ascertained from the plain, ordinary meaning of the language of the release. *Id.* at 519; *Gortney, supra* at 540. Here, based on the plain, ordinary meaning of the language of the release, the trial court correctly granted defendant's motion for summary disposition.

We affirm.

/s/ Joel P. Hoekstra  
/s/ Jane E. Markey  
/s/ Kurtis T. Wilder