

STATE OF MICHIGAN
COURT OF APPEALS

CHARMAIN ANTOINETTE MOORE,
Plaintiff-Appellant,

UNPUBLISHED
July 14, 2011

v

KARL TREPKOWSKI and NICHOLAS
TREPKOWSKI,

No. 296355
Saginaw Circuit Court
LC No. 08-003477-NI

Defendants-Appellees.

Before: SAAD, P.J., and JANSEN and DONOFRIO, JJ.

MEMORANDUM.

Plaintiff brought a negligence action against defendants under the no-fault insurance act, MCL 500.3101 *et seq.* Plaintiff appeals by right the trial court's order granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(10). We vacate and remand.

Plaintiff and defendant Nicholas Trepkowski were involved in an automobile accident. Defendant Karl Trepkowski owned the vehicle that Nicholas was driving at the time of the accident. Plaintiff filed the instant lawsuit, claiming that Nicholas caused the accident and that she suffered a serious impairment of body function as a result. Specifically, plaintiff sustained a fractured right wrist that required two surgeries.

Defendants moved for summary disposition, arguing that plaintiff did not suffer a serious impairment of body function under MCL 500.3135(1) and (7). Applying the standards of *Kreiner v Fisher*, 471 Mich 109; 683 NW2d 611 (2004), the trial court granted the motion on the ground that plaintiff's injury did not affect her ability to lead her normal life because she served in the National Guard after the accident and was not under any medical restrictions.

After plaintiff filed her appeal in this Court, our Supreme Court issued its opinion in *McCormick v Carrier*, 487 Mich 180; 795 NW2d 517 (2010), which effectively overruled *Kreiner*. Because the trial court applied the *Kreiner* standards when it granted summary disposition in favor of defendants, and because *McCormick* establishes new standards for evaluating claims of non-economic damages under the no-fault act, we vacate the order granting summary disposition in favor of defendants and remand this matter to the trial court. On remand, the trial court shall reconsider plaintiff's claim and defendants' motion in light of the standards set forth in *McCormick*.

Vacated and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Pat M. Donofrio