

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

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CASSANDRA N. LONG,

Plaintiff-Appellant,

v

AUTOMOBILE CLUB OF MICHIGAN and  
DISCOVER PROPERTY & CASUALTY  
INSURANCE COMPANY,

Defendants,

and

TRAVIS SCOTT HAWTHORNE,

Defendant-Appellee.

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UNPUBLISHED  
September 18, 2007

No. 272811  
Wayne Circuit Court  
LC No. 05-508066-NI

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REBECCA E. GUZNACK,

Plaintiff-Appellant,

v

TRAVIS SCOTT HAWTHORNE,

Defendant-Appellee,

and

AUTOMOBILE CLUB OF MICHIGAN,

Defendant.

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No. 272812  
Wayne Circuit Court  
LC No. 05-508067-NI

Before: Cavanagh, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Plaintiffs Cassandra Long and Rebecca Guznack appeal as of right from the trial court's order granting summary disposition in favor of defendant-appellee. We affirm. This case has been decided without oral argument under MCR 7.214(E).

Plaintiffs argue that the trial court erred in granting summary disposition to defendant-appellee because the injuries they sustained met the threshold of a serious impairment of body function, which would potentially subject defendant-appellee to tort liability under MCL 500.3135(1). We disagree.

A trial court's decision on a motion for summary disposition is reviewed de novo. *Stehlik v Johnson (On Rehearing)*, 206 Mich App 83, 85; 520 NW2d 633 (1994). The Court must consider all pleadings, affidavits, depositions, admissions, and other evidence in the light most favorable to the non-moving party. *Id.* Summary disposition is appropriate under MCR 2.116(C)(10) "when, except for the amount of damages, there is no genuine issue concerning any material fact and the moving party is entitled to damages as a matter of law." *Id.*

Under the no-fault automobile insurance act, MCL 500.3101 *et seq.*, the Legislature limited the ability of an injured person to sue a negligent owner or operator of a motor vehicle for bodily injuries sustained as a result of a motor vehicle accident. *Kreiner v Fischer*, 471 Mich 109, 115; 683 NW2d 611 (2004). Specifically, "[n]o tort suit against a third party for noneconomic damages is permitted unless the injured person 'has suffered death, serious impairment of body function, or permanent serious disfigurement.'" *Id.*, quoting MCL 500.3135(1). An injury qualifies as a serious impairment of body function if it is "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).

A plaintiff's general ability to lead his or her life is not affected by merely any effect. *Kreiner, supra* at 133. However, several objective factors may be considered to determine whether the plaintiff's "general ability" to conduct the course of his or her normal life has been affected: "(a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment, and (e) the prognosis for eventual recovery." *Id.* These factors are not exclusive; rather, the totality of the circumstances should be considered. *Id.* at 134. However, when examining the totality of the circumstances, a plaintiff's self-imposed restrictions based on real or perceived pain cannot be used to prove that the impairment of an important body function affects his or her general ability to lead his or her normal life. *McDaniel v Hemker*, 268 Mich App 269, 283; 707 NW2d 211 (2005).

Each plaintiff argues that her injury meets the required statutory threshold required to recover under MCL 500.3135 because, under the totality of the circumstances, the course or trajectory of her life has been altered. We disagree. Plaintiffs' arguments are based on solely self-imposed restrictions that cannot be used to prove that their general ability to lead their normal lives has been altered.

First, plaintiff Long argues that she was unable to complete the Law School Admission Test because of muscle spasms and headaches. There is no evidence in the record that a

physician restricted Long from taking the LSAT. Being a self-imposed restriction, the claim cannot be used to prove that Long's general ability to lead her normal life has been altered. See *McDaniels, supra*. Next, Long argues that she has had to re-take a college course and has suffered low grades due to an inability to concentrate. However, there is no objective evidence linking those events to the injuries suffered by Long in the automobile accident. Finally, Long argues that her ability to workout several times a week has been reduced. Again, there is no proof that Long's reduced workout schedule is a physician-imposed restriction. Moreover, plaintiff is still able to workout at least one time per week. In this regard, "[m]erely 'any effect' on the plaintiff's life is insufficient because a de minimus effect would not as objectively viewed, affect the plaintiff's 'general ability' to lead [her] life." *Kreiner, supra*. Accordingly, Long has not established that, under the totality of the circumstances, she has suffered an impairment that affects her general ability to lead her normal life.

Plaintiff Guznack also argues that the course and trajectory of her life has been altered as a result of the accident. She supports this argument with a conclusory statement that it was the course and trajectory of her life to become an attorney. There is no record evidence that a physician has restricted her from continuing on that course. Therefore, this argument cannot be considered under *Kreiner* as proof that her general ability to lead her normal life has been altered. See *McDaniels, supra*. Guznack further argues that her ability to enjoy various social activities has been affected and that her ability to workout several times a week has been reduced. Again, there is no record evidence these restrictions were anything other than self-imposed. And as with plaintiff Long, Guznack was still able to work out at least one time per week. She has not provided sufficient evidence of an impairment that affects her general ability to lead her normal life. See *Kreiner, supra*.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Pat M. Donofrio  
/s/ Deborah A. Servitto