

Court of Appeals, State of Michigan

ORDER

Cynthia Stover v Ford Motor Company

Docket No. 334765

LC No. 14-011537-NO

Christopher M. Murray
Presiding Judge

Karen M. Fort Hood

Michael J. Riordan
Judges

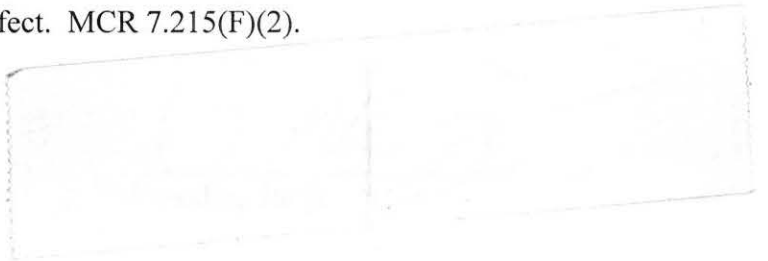
The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), the trial court's September 14, 2016 order is REVERSED because plaintiff has failed to show the foreseeable harm necessary to impute a duty to Ford under these circumstances. *Hill v Sears, Roebuck & Co*, 492 Mich 651, 661; 822 NW2d 190 (2012) (at common law, "before any duty can be imposed, there must be a relationship between the parties and the harm must have been foreseeable."). Indeed, no evidence shows that Ford had knowledge that the "toter" was overloaded, that a Ford security officer unlocked the "toter" lid, or that the security officer who did so had knowledge that the toter was overloaded. It is therefore speculative that the opening of the toter lid imputed to Ford knowledge of any risk of harm to plaintiff. See *Karbel v Comerica Bank*, 247 Mich App 90, 97; 635 NW2d 69 (2001) (speculation is not enough to avoid summary disposition). Further, plaintiff admitted that she not only had authority to order another independent contractor's movers to handle the toters, but that she had done so on a prior occasion when a toter was too heavy. For this additional reason, Ford had no reason to foresee any risk or danger to plaintiff under these circumstances, especially considering that plaintiff was warned the toters were heavy before she was injured and plaintiff proceeded to move the toter on her own volition. Finally, the common work area doctrine is inapplicable where only plaintiff and Evatt were in the storage room. See *Hughes v PMG Bldg, Inc*, 227 Mich App 1, 7; 574 NW2d 691 (1997). The trial court erred in ruling otherwise.

The motion for stay is DENIED as moot.

This order is to have immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 22 2016

Date


Chief Clerk