

STATE OF MICHIGAN
COURT OF APPEALS

PONTIAC OSTEOPATHIC HOSPITAL,

Plaintiff-Appellant,

v

ARGONAUT INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
September 3, 1996

No. 178688
LC No. 93-458468

Before: Holbrook, Jr., P.J., and Taylor and W.J. Nykamp,* JJ.

PER CURIAM.

In this insurance coverage case, plaintiff appeals as of right from an Oakland County Circuit Court order granting summary disposition to defendant pursuant to MCR 2.116(C)(8) and (10). We affirm.

The doctrine of equitable estoppel arises where (1) a party by representation, admissions, or silence, intentionally or negligently induces another party to believe facts; (2) the other party justifiably relies and acts on this belief; and (3) the other party will be prejudiced if the first party is permitted to deny the existence of the facts. *Engel v State Mutual Rodded Fire Ins Co*, 281 Mich 520, 527; 275 NW 231 (1937); *Schmude Oil Co v Omar Operating Co*, 184 Mich App 574, 581-582; 458 NW2d 659 (1990). As the trial court noted in its opinion, although defendant induced plaintiff to believe that it would contribute \$145,000 to the mediation award, plaintiff has failed to establish that it relied to its detriment on this representation. Plaintiff could only establish detrimental reliance in this case had it been legally bound by the agreement of the plaintiffs in the underlying malpractice action to accept either mediation or a valid outstanding offer of settlement of \$495,000. That was not the case, however. The underlying plaintiffs rejected the mediation award of \$495,000, but apparently *offered* to accept that amount during subsequent settlement negotiations. Before acceptance of that offer by Pontiac Osteopathic Hospital, however, Argonaut formally withdrew its earlier offer to contribute to any settlement in the malpractice case. Equitable estoppel requires a showing of detrimental reliance; here, there was none. Consequently, we need not even reach the issue whether plaintiff was prejudiced by defendant's withdrawal.

* Circuit judge, sitting on the Court of Appeals by assignment.

In all other respects, we adopt as our own the comprehensive and well-reasoned opinion of the trial court. We find no error as to fact or law.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Clifford W. Taylor

/s/ Wesley J. Nykamp