

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

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ALLSTATE INSURANCE COMPANY,

Plaintiff-Appellant,

v

ARTHUR P. MATA, Personal Representative of the  
ESTATE OF SYLVIA SAULTMAN, Deceased, and  
WILLIAM MASON HARDIMON, JR., Personal  
Representative of the ESTATE OF WILLIAM  
MASON HARDIMON, Deceased.

Defendants-Appellees.

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UNPUBLISHED  
October 15, 1996

No. 170112  
LC No. 89-108021-CZ

Before: White, P.J., and Fitzgerald and E.M. Thomas,\* JJ.

FITZGERALD, J. (dissenting.)

I respectfully dissent. My review of the record, particularly Dr. Tanay's testimony that is quoted in the majority opinion, convinces me that reasonable minds could differ regarding whether Hardimon intended the results of his acts. Therefore, I would hold that the trial court properly denied Allstate's motion for summary disposition and would affirm. *Farm Bureau Mutual Ins Co v Stark*, 437 Mich 175, 184-185; 468 NW2d 498 (1991).

/s/ E. Thomas Fitzgerald

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