

STATE OF MICHIGAN  
COURT OF APPEALS

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DAVID STERN,

Plaintiff–Appellant,

v

STANDARD DISTRIBUTING, INC. and DAVID  
VERCAMMEN,

Defendants–Appellees.

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UNPUBLISHED

December 6, 1996

No. 187074

LC No. 94-501127-CZ

Before: Young, P.J., and Taylor and R. C. Livo,\* JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendants’ summary disposition pursuant to MCR 2.116(C)(7) (release). Plaintiff sued defendants for age discrimination under the Michigan Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.* We reverse.

A motion for summary disposition pursuant to MCR 2.116(C)(7) may be supported by affidavits, depositions, admissions, or other documentary evidence. *Patterson v Kleiman*, 447 Mich 429, 432; 526 NW2d 879 (1994). If such material is supplied, the trial court must consider it. *Id.* Otherwise, the trial court must review the plaintiff’s complaint, accepting its well-pleaded allegations as true and construing them in a light most favorable to the plaintiff. *Turner v Mercy Hosps & Health Services of Detroit*, 210 Mich App 345; 533 NW2d 365 (1995). This Court reviews a summary disposition determination de novo as a question of law. *Id.*

The trial court granted defendants’ motion for summary disposition because it concluded that plaintiff had released all claims against defendants, in writing, and had failed to tender back to defendants the consideration for the release. Plaintiff first argues that the document upon which defendants relied was not a release. We agree.

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

In prior decisions of this Court and the Supreme Court, in releases that were addressed or upheld, the releases have explicitly recited the consideration given for the release, and explicitly stated that the employee was releasing the employer in exchange for the recited consideration. *Stefanac v Cranbrook Educational Community (After Remand)*, 435 Mich 155, 163; 458 NW2d 56 (1990); *Leahan v Stroh Brewery Co*, 420 Mich 108, 112; 359 NW2d 524 (1984); *Hungerman v McCord Gasket Corporation*, 189 Mich App 675, 676-677; 473 NW2d 720 (1991); *Davis v Bronson Methodist Hosp*, 159 Mich App 251; 406 NW2d 201 (1986).

Here, the document upon which defendants rely does not clearly recite the consideration defendants were giving plaintiff in exchange for signing the document and does not state that plaintiff was releasing any claims in consideration for any monies or other benefits. Under such circumstances, the document did not constitute a release. *Taylor Group v ANR Storage Co*, 452 Mich 561, 566-567; \_\_\_ NW2d \_\_\_ (1996). Acknowledging the lack of claims is not the same as releasing potential claims. Accordingly, defendant was not entitled to summary disposition.

Because we conclude that the document was not a release, there is no need to address plaintiff's other arguments.

Reversed.

/s/ Robert P. Young  
/s/ Clifford W. Taylor  
/s/ Robert C. Livo