

STATE OF MICHIGAN
COURT OF APPEALS

TARIA MARKS,

Plaintiff-Appellee,

v

TACO BELL CORPORATION and
MIKE ANDERSON,

Defendant-Appellant,

and

JOHN DOE MAINTENANCE
SYSTEM,

Defendant.

UNPUBLISHED

May 30, 1997

No. 189168

Genesee Circuit Court

LC No. 93-22268 NO

Before: Saad, P.J., and Hood and McDonald, JJ.

MEMORANDUM.

Plaintiff, a 17-year old high school senior, was injured while employed at a Taco Bell Restaurant under the supervision of manager Mike Anderson when, during her attempt to release the pressure on a pressure cooker full of beans, the lid separated from the cooker with explosive force and plaintiff was sprayed with boiling liquid, resulting in severe burn injuries to her face and scalp. Plaintiff contends that the cooker was defective because its securing devices were cracked, worn, or stripped, and that this was known to employees of Taco Bell, qualifying the incident as an intentional tort.

The Genesee Circuit Court denied defendants' motion for summary disposition based on the exclusive remedy provision of the Worker's Disability Compensation Act, §131. That issue now comes before this Court on leave granted. This Court dispenses with oral argument pursuant to MCR 7.214(E).

At her deposition, plaintiff acknowledged that she knew of no one at Taco Bell who wished her any harm. Even assuming, therefore, that exposing her to a defective pressure cooker could come within the intentional tort exception to the exclusive remedy provision, plaintiff's inability to identify any agent of Taco Bell who had in mind a purpose to injure her precludes liability under the intentional tort exception. *Travis v Dreis & Krump Mfg Co*, 453 Mich 149, 171-172; ___ NW ___ (1996). Plaintiff's further contentions, that she was illegally employed in hazardous employment without proper supervision, adds nothing to an intentional tort claim; if true, that would entitle plaintiff to double benefits under the Worker's Disability Compensation Act, §161(b). With respect to claims concerning delays in summoning medical attention immediately after the injury, again plaintiff fails to identify any agent or employee of Taco Bell who intended, by virtue of the course of action pursued, that plaintiff suffer additional injuries.

Accordingly, the Genesee Circuit Court erred in denying defendants' motion for summary disposition. The order of the Genesee Circuit Court entered September 7, 1995, denying defendants' motion for summary disposition, is reversed, and the cause is remanded to the Genesee Circuit Court for further proceedings consistent with this opinion.

We do not retain jurisdiction.

/s/ Henry William Saad

/s/ Harold Hood

/s/ Gary R. McDonald