

STATE OF MICHIGAN  
COURT OF APPEALS

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MARY GEORGE,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

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UNPUBLISHED

August 26, 1997

No. 193595

Macomb Circuit Court

LC No. 95-002604-NP

Before: Wahls, P.J., and Taylor and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10).<sup>1</sup> We affirm.

Plaintiff first argues that the trial court erred in granting summary disposition prior to the completion of discovery. We disagree. In the instant case, discovery had closed<sup>2</sup> and plaintiff had agreed not to retain an expert. Without an expert to testify regarding the alleged design defect in the braking system, plaintiff could not make a prima facie product liability case and her claim was unenforceable as a matter of law. See *Lawrenchuk v Riverside Arena Inc*, 214 Mich App 431, 435; 542 NW2d 612 (1995). Therefore, the trial court did not err in granting defendant's motion for summary disposition.

Plaintiff also argues that the trial court erred in relying on the parties' agreement in which plaintiff agreed not to retain an expert witness if defendant agreed to allow plaintiff to amend her pleadings. However, after reviewing the record, we find no evidence that this agreement existed. The correspondence to which plaintiff directs this Court's attention as evidence of the agreement does not support plaintiff's claim. Rather, the correspondence discusses an agreement in which plaintiff agreed to file a witness list that comported with the court rules and to admit that she would not retain an expert witness in this case if defendant agreed to adjourn its motion to strike plaintiff's pleadings for failure to file a witness list. Therefore, because the factual basis for plaintiff's argument is unsupported by the record, we decline to review this issue.

Affirmed.

/s/ Myron H. Wahls  
/s/ Clifford W. Taylor  
/s/ Joel P. Hoekstra

<sup>1</sup> Defendant's motion was brought pursuant to MCR 2.116(C)(8) and (C)(10). The trial court did not state under which subrule it granted defendant's motion. Because it referred to evidence outside the pleadings, we will assume that summary disposition was granted pursuant to MCR 2.116(C)(10). See MCR 2.116(G)(5).

<sup>2</sup> Although plaintiff argued that discovery had not closed prior to the trial court's grant of summary disposition, upon review of the record, we find that discovery closed six days prior to the hearing of defendant's motion for summary disposition.