STATE OF MICHIGAN

COURT OF APPEALS

LYNNE WOOD, NEXT FRIEND OF MELISSA WOOD,

Plaintiff-Appellant,

v

BEREAN BAPTIST CHURCH and HEIDI BEAGLE,

Defendant-Appellees.

UNPUBLISHED
September 26, 1997

No. 196381
Lenawee Circuit Court
LC No. 95-006531-NO

Before: Markman, P.J. and McDonald and Fitzgerald, JJ.

PER CURIAM.

Plaintiff, Lynne Wood as next friend of Melissa Wood, appeals as of right from the Lenawee Circuit Court's order granting defendants' motion for summary disposition. We reverse. Plaintiff brought this action against defendants, Berean Baptist Church and Heidi Beagle, following an incident at a church carnival/vacation Bible school. The lower court granted defendants' motion for summary disposition on the basis that the doctrine of intra-family immunity precluded a suit against defendants, holding that defendants were standing in loco parentis to plaintiff.

We review a motion for summary disposition under a de novo standard of review. *Borman v State Farm Fire & Casualty Co*, 198 Mich App 675, 678; 499 NW2d 419 (1973). The doctrine of intra-family immunity, which states that a child may not maintain a lawsuit against his parents for injuries suffered as a result of the alleged ordinary negligence of the parent, was generally overturned by the Michigan Supreme Court in *Plumley v Klein*, 388 Mich 1, 8; 199 NW2d 169 (1972). However, the *Plumley* Court noted two exceptions to the new rule and granted immunity:

> (1) where the alleged negligent act involves an exercise of reasonable parental authority over the child; and

(2) where the alleged negligent act involves an exercise of reasonable parental discretion with respect to the provision of food, clothing, housing, medical and dental services, and other care. [Id.]

In *Hush v Devilbiss Co*, 77 Mich App 639, 645; 259 NW2d 170 (1977), we noted that immunity is not granted to parents simply because they are parents but rather because of the duties and responsibilities they assume within the household; this Court extended immunity at the same time to persons standing in loco parentis. The limited immunity afforded parties to intra-family actions was established in an effort to preserve peace and harmony among family members and was only be extended to persons standing in loco parentis who have voluntarily assumed parental responsibility and attempted to create a home-like environment for a child. *Id*. at 646-7.

In the instant case, no evidence was presented that defendants took on parental responsibility and attempted to create a home-like environment for plaintiff. Further, the exceptions allowing intra-family immunity clearly limit immunity to negligent acts. *Plumley, supra*, at 8. Claims of intentional torts are outside of the parental immunity doctrine. *Mayberry v Pryor*, 422 Mich 579, 588; 374 NW2d 683 (1985). Plaintiff's complaint here consists of four counts, three of which allege intentional torts: assault and battery, false imprisonment and intentional infliction of emotional distress. Therefore, the *Plumley* exceptions granting intra-family immunity do not, at the least, apply to bar plaintiff's intentional tort claims against defendants. Summary disposition on the grounds of intra-family immunity is not warranted.

Defendants contend that, even if the lower court erred in granting defendants' motion for summary disposition on the basis of intra-family immunity, summary disposition was appropriate as the trial court lacked subject matter jurisdiction. Defendants contend that as plaintiff's case focuses upon religious teaching at a church carnival/Bible education session, the court would have had to inject itself into an evaluation of church doctrine and teachings and that such inquiry is precluded by Michigan case law, the Michigan Constitution and the First Amendment of the U S Constitution. We disagree.

Although it has long been held that judicial interference in the purely ecclesiastical affairs of religious organizations is improper, the unreviewable discretion of religious authorities does not apply to all of their decisions regarding all activities; rather, they are only insulated only from such interference with regard to their decisions which directly involve religious doctrine. *Dlaikan v Roodbeen*, 206 Mich App 591, 597; 522 NW2d 719 (1994). Indeed, the fact that a religious organization may be sued for non-religious activities was long ago established when the Michigan Supreme Court, in *Gallon v House of Good Shepherd*, 158 Mich 361; 122 NW 631 (1909), proceeded on a theory of false imprisonment against a religious home for wayward girls, ruling that the jury below was warranted in finding that the plaintiff was restrained against her will.

It is clear from the acts complained of in the instant complaint that plaintiff's cause of action does not rest on an interpretation of the Berean Baptist Church's religious doctrine. Plaintiff makes claims of assault and battery, negligence, false imprisonment and intentional infliction of emotional

distress, and claims that, while in the church, she was taken to a curtained area, not allowed to leave, and was verbally intimidated by employees or agents of the church. A determination of whether these physical acts occurred, and whether they establish a tort, does not require any reference to the religious beliefs of the church. Therefore, summary disposition on the basis of lack of jurisdiction on ecclesiastical grounds is not warranted.

Reversed and remanded for further proceedings, including those relating to defendant's motion for summary disposition if appropriate.

/s/ Stephen J. Markman
/s/ Gary R. McDonald
/s/ E. Thomas Fitzgerald