

STATE OF MICHIGAN
COURT OF APPEALS

JAMES PECORA,

Plaintiff-Appellant,

v

CITY OF LANSING,

Defendant-Appellee.

UNPUBLISHED

October 3, 1997

No. 196191

Ingham Circuit Court

LC No. 94-079310 NZ

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

Plaintiff appeals by right summary disposition which, in pertinent part, was granted as to his Elliott-Larsen Civil Rights Act and Handicapper's Civil Rights Act claims on statute of limitations grounds, MCR 2.116(C)(7). Plaintiff concedes on appeal that, to the extent his complaint alleges acts by defendant occurring prior to December 28, 1991, it is time barred by the three year period of limitations.

Plaintiff contends, however, that paragraphs 58, 64, 68, 114, 153, and 163 of his complaint allege acts of discrimination occurring within the three year limitations period. With respect to the Elliott-Larsen Civil Rights Act claims, nowhere in plaintiff's complaint does he identify himself as a member of a protected class or group; thus, his complaint was subject to dismissal in that respect for failure to establish a prima facie case under the ELCRA. *Roberson v Occupational Health Centers*, 220 Mich App 322, 330; 559 NW2d 86 (1996). Similarly, while his HCRA claim did identify a basis for finding plaintiff to be handicapped within the statute, in no way did it identify how the alleged wrongful conduct by defendant or its agents was related to plaintiff's handicap, and thus also failed to plead a prima facie case. *Stevens v Inland Waters, Inc*, 220 Mich App 212, 215; 559 NW2d 61 (1996).

In any event, paragraphs 58, 64, and 68 of plaintiff's complaint related to Count I, breach of contract, as to which summary disposition was granted on substantive grounds which plaintiff has not challenged here. Those acts were not alleged to be acts of discrimination and the statute of limitations is irrelevant to those portions of plaintiff's complaint.

As to the remaining paragraphs of plaintiff's complaint, numbers 114, 153, and 163, these consist of conclusory assertions of improper conduct, without identifying any specific facts. Such allegations are improper under MCR 2.111(B)(1) and are thus ignored, accordingly, for summary disposition purposes when assessing whether plaintiff's complaint pleads a viable cause of action. *Dacon v Transue*, 441 Mich 315, 330; 490 NW2d 369 (1992). Since, without those conclusory allegations, plaintiff concedes that his complaint pleads no improper conduct within the period of limitations, summary disposition on that basis was properly granted.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad