

STATE OF MICHIGAN
COURT OF APPEALS

RISTO MILENKOVSKI and TOMKA
MILENKOVSKI,

UNPUBLISHED
February 10, 1998

Plaintiffs-Appellants,

v

No. 193302
Macomb Circuit Court
LC No. 94-000249 NP

E W BLISS COMPANY, INC, and GENERAL
MOTORS CORPORATION,

Defendants-Appellees,

and

COLOMBO MACHINE REPAIR, INC, RUDDY
PRESS EQUIPMENT & SALES COMPANY, and
WALCO ENTERPRISES, INC,

Defendants.

Before: Gage, P.J., and Murphy and Reilly, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the Macomb Circuit Court's order summarily dismissing their product liability action pursuant to MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

A prima facie case for product liability, under either a negligence or warranty theory, requires proof of a casual relationship between the defect and the damage of which a plaintiff complains. *Skinner v Square D Co*, 445 Mich 153, 159; 516 NW2d 475 (1994); *Mulholland v DEC Int'l Corp*, 432 Mich 395, 415; 443 NW2d 340 (1989). Additionally, there must be evidence establishing a reasonable probability that the defect is attributable to the manufacturer or seller. *Holloway v General Motors Corp (On Rehearing)*, 403 Mich 614, 621; 271 NW2d 777 (1978); *Trotter v Hamill Mfg Co*, 143 Mich App 593, 598; 372 NW2d 622 (1985).

The documentary evidence supplied by Bliss and General Motors established that Milenkovski's injuries were proximately caused by a broken backshaft, which was installed in the press after Bliss manufactured the press and after General Motors sold the press. This same evidence further established that the press was adequately guarded during its cycling process, as demonstrated by the dual palm activation system, and that Milenkovski's injury occurred after the cycling process was complete. On such a record, the evidence submitted by Bliss and General Motors demonstrated an absence of a connection between Bliss and General Motors and the defect in the press that proximately caused Milenkovski's injury. The affidavit of plaintiffs' expert does not dictate a different conclusion. The affidavit fails to set forth specific facts showing the existence of a genuine issue of material fact. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The affidavit does not specify why the dual palm activation system constituted inadequate guarding, what measures should have been taken to assure that the press was adequately guarded or how this lack of adequate guarding contributed to Milenkovski's injury. Instead, the affidavit contains only general statements of legal conclusion. An affidavit of this nature is insufficient to establish the existence of a genuine issue of material fact. *Hoehner v Western Casualty & Surety Co*, 8 Mich App 708, 713; 155 NW2d 231 (1967).

The instant record is devoid of evidence from which it can be inferred that Bliss's specifications for the backshaft gave rise to a propensity for shaft breakage during foreseeable uses.

Affirmed

/s/ Hilda R. Gage

/s/ William B. Murphy

/s/ Maureen Pulte Reilly