

STATE OF MICHIGAN
COURT OF APPEALS

ELAINE FRINKLEY,

Plaintiff-Appellant,

v

DR. S. WILLIAM PARIS, M.D., and PARIS
ALLERGY CENTERS,

Defendants-Appellees,

and

JOHN DOE,

Defendant.

UNPUBLISHED

January 4, 2000

No. 208100

Wayne Circuit Court

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

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition in his medical malpractice action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's complaint alleged that defendant Paris wrote an illegible or incorrect prescription for Uni-Dur, as asthma medication, which was filled by the John Doe defendant pharmacist with Imdur, a heart medication. As a result of taking the wrong medication, plaintiff was hospitalized and missed several weeks of work. Defendants moved for summary disposition under MCR 2.116(C)(8) and (10), asserting that the prescription was correct, and that they owed no duty to assure that a prescription was filled properly. The trial court reviewed the prescription, found that it was properly written, and that defendants had a right to assume that a pharmacist with general competence would be able to understand the prescription.

This Court will review a trial court's ruling on summary disposition de novo. *Spiek v Dept of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion for summary disposition

under MCR 2.116(C)(10) tests whether factual support for a claim exists. When deciding the motion, a court should consider the pleadings, affidavits, depositions, admissions, and other documentary evidence submitted by the parties. The moving party has the initial burden of supporting its position by documentary evidence, after which the burden shifts to the opposing party to establish that a genuine issue of disputed fact exists. If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion should be granted. *Smith v Globe Life Ins Co*, 460 Mich 446; 597 NW2d 28 (1999).

There is no showing that the trial court erred in granting summary disposition. Plaintiff failed to present evidence that would establish a factual dispute regarding the interpretation of the prescription.

Affirmed.

/s/ Henry William Saad

/s/ Gary R. McDonald

/s/ Hilda R. Gage