

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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JANIE ANDERSON,

Plaintiff-Appellant,

v

GREAT FAITH MINISTRIES CHURCH, INC.,  
a/k/a GREAT FAITH MINISTRIES CHURCH  
INTERNATIONAL, INC.,

Defendant-Appellee.

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UNPUBLISHED  
September 5, 2000

No. 212372  
Wayne Circuit Court  
LC No. 97-711855-NO

Before: Kelly, P.J., and Holbrook, Jr., and Griffin, JJ.

PER CURIAM.

In this negligence cause of action, plaintiff appeals as of right from the trial court's grant of summary disposition to defendant. We reverse.

Plaintiff claims to have been injured by a fall she took while attending a church service on defendant's premises. Plaintiff asserts that she was forced to the ground after having received a pledge envelope from Wayne Jackson, the individual who had been leading the services. In its motion for summary disposition, defendant argued that plaintiff failed to provide proof establishing the causation element of her claim. The trial court agreed.

Plaintiff argues on appeal that the trial court erred in granting defendant's motion for summary disposition. We agree. This Court reviews decisions on motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Although the motion was premised on MCR 2.116(C)(8) and (10), because the trial court examined evidence outside the pleadings when rendering its decision, the issue will be reviewed under the standard of review applicable to (C)(10) motions. *Kubisz v Cadillac Gage Textron, Inc.*, 236 Mich App 629, 633, n 4; 601 NW2d 160 (1999).

A motion pursuant to MCR 2.116(C)(10) tests the factual basis underlying a plaintiff's claim. MCR 2.116(C)(10) permits summary disposition when, except for the amount of damages, there is no genuine issue concerning any material fact and the moving party

is entitled to damages as a matter of law. A court reviewing such a motion must consider the pleadings, affidavits, depositions, admissions, and any other evidence in favor of the opposing party and grant the benefit of any reasonable doubt to the opposing party. [*Stehlik v Johnson (On Rehearing)*, 206 Mich App 83, 85; 520 NW2d 633 (1994).]

Initially, we want to make it clear that the type of causation at issue in the case before us is cause in fact, not proximate or “legal” cause. Further, plaintiff’s theory of causation is grounded in circumstantial evidence and the inferences that arise therefrom. Our analysis of the issue will be accordingly focused.

It is a longstanding rule in Michigan that a plaintiff’s theory of causation must not be based on mere conjecture or speculation. *Skinner v Square D Co*, 445 Mich 153, 164; 516 NW2d 475 (1994); *Kaminski v Grand Trunk W R Co*, 347 Mich 417, 422; 79 NW2d 899 (1956). By itself, mere speculation that an injury might have occurred in the way alleged by a plaintiff does not offer adequate proof that it did occur in that manner. Rather, a plaintiff must come forth with proof from which the trier of fact may reasonably conclude that it was the defendant’s conduct that was the cause in fact of the injury sustained. *Skinner, supra* at 164-165.

Further, as our appellate courts have often observed, a distinction exists between a causal theory that shows that an injury could have, hypothetically, occurred in a given way, and a causal theory that is reasonably inferred from the circumstantial evidence:

“As a theory of causation, a conjecture is simply an explanation consistent with known facts or conditions, but not deducible from them as a reasonable inference. There may be 2 or more plausible explanations as to how an event happened or what produced it; yet, if the evidence is without selective application to any one of them, they remain conjectures only. On the other hand, if there is evidence which points to any 1 theory of causation, indicating a logical sequence of cause and effect, then there is a juridical basis for such a determination, notwithstanding the existence of other plausible theories with or without support in the evidence.” [*Kaminski, supra* at 422, quoting *City of Bessemer v Clowdus*, 261 Ala 388, 394; 74 So2d 294 (1954), quoting *Southern Ry Co v Dickson*, 211 Ala 481, 486; 100 So 665 (1924).]

Given a fixed set of circumstances surrounding an injury, numerous plausible hypotheses could be constructed which both account for the circumstances and explain the occurrence of the injury. In the abstract, each of these hypotheses is said to be “consistent with known facts or conditions.” However, if there is no evidence from which a given hypothesis could be inferred, then that explanation remains pure conjecture.

If, however, the plaintiff provides substantial evidence that “points to” any one hypothesis, then that theory of causation is removed from the realm of the purely speculative. This evidence need not establish with mathematical precision the causal chain, i.e., the “logical sequence.” See *Skinner, supra* at 166. Such exactitude is not only antithetical to the nature of circumstantial evidence, see Prosser &

Keeton, Torts (5<sup>th</sup> ed), § 41, pp 269-270, but is also not in keeping with the burden of proof in cases like the one before us. Nevertheless, the evidence must provide a reasonable basis “from which a jury may conclude that more likely that not,” the defendant’s actions were the cause in fact of the injury sustained. *Skinner, supra* at 165.

After reviewing the record, we conclude that plaintiff has presented enough evidence to survive a (C)(10) motion. Plaintiff testified in her deposition that she was struck in both the lower back and across her shoulders as she was walking toward the left rear of the sanctuary after receiving the pledge envelope. Plaintiff further testified that although she did not see who struck her, she believed she was struck by a man. The force of the blows knocked plaintiff through the open rear sanctuary doors and onto the foyer floor. Annie Hudson, who was at the same service, testified that there was a group of people gathered around Jackson as he was passing out the envelopes in the left-hand aisle. Hudson stated that at a point when Jackson was confronted by an allegedly intoxicated man, two security men approached Jackson from the front and rear of the left-hand aisle. Hudson testified these two security men pushed those gathered around Jackson out of the way as they attempted to get to Jackson. Hudson stated that those pushed out of the way began to fall back away from Jackson like dominoes. Plaintiff’s daughter was also in the church and viewed the incident. She testified that she “could see someone being knocked over, trampled over, pushed to the floor as [the security men] were rushing [the allegedly intoxicated man] out of the door.”

We believe that a reasonable trier of fact could look at this evidence and the reasonable inferences arising therefrom, and conclude that it is more likely than not that but for the actions of the security men, plaintiff would not have been injured. The testimony, if accepted, sets forth a causal chain of events that begins with the confrontation between the allegedly intoxicated man and Jackson, and culminates with plaintiff’s being forced to the floor. The fact that plaintiff, who was facing away from these events at the time, cannot specifically identify the source of the two blows does not negate the reasonable inference that she was struck from behind because of the actions of the security men.<sup>1</sup>

Reversed and remanded. We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Donald E. Holbrook, Jr.

/s/ Richard Allen Griffin

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<sup>1</sup> It is also not necessary for plaintiff to identify a single causal mechanism behind her injury in order to survive a (C)(10) motion. Whether plaintiff was struck by a falling parishioner or by the security men as they were removing the allegedly intoxicated man, or perhaps even a combination thereof, the causal chain remains intact.