

Court of Appeals, State of Michigan

ORDER

Mark Stanton v Anthony Armada MD

Docket No. 313284

LC No. 11-000645-NH

Patrick M. Meter
Presiding Judge

Peter D. O'Connell

Donald S. Owens
Judges

The Court orders pursuant to MCR 7.205(D)(2) that the part of the trial court's September 26, 2012 order denying St. Lawrence Hospital & Healthcare Services' and Sparrow Health System's motion for summary disposition with respect to claims of vicarious liability based on the actions of Dr. Coffey is REVERSED. This Court's review of a trial court's decision on a motion for summary disposition is limited to the evidence that was presented to the trial court at the time the motion was decided. *Innovative Adult Foster Care, Inc v Ragin*, 285 Mich App 466, 475-476; 776 NW2d 398 (2009). In response to the motion for summary disposition, plaintiffs did not address the issue of vicarious liability, and did not identify evidence to establish an actual or ostensible agency between defendants and Dr. Coffey. *Grewe v Mt Clemens Gen Hosp*, 404 Mich 240; 273 NW2d 429 (1978); *VanStelle v Macaskill*, 255 Mich App 1, 11; 662 NW2d 41 (2003). Rather, plaintiffs asserted claims of active negligence. Plaintiffs did not establish a genuine issue of material fact regarding whether Dr. Coffey was an employee, actual agent, or ostensible agent of the hospital for purposes of holding defendants vicariously liable for his actions. MCR 2.116(C)(10); MCR 2.116(G)(4); *Quinto v Cross & Peters Co*, 452 Mich 358, 362; 547 NW2d 314 (1996).

This case is REMANDED for further proceedings consistent with this order.

We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT - 3 2013

Date


Chief Clerk