

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

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VICTORIA BOOTH as next friend of RAJAH  
ALLEN BOOTH,

UNPUBLISHED  
June 21, 2011

Plaintiff-Appellee,

v

No. 297538  
Genesee Circuit Court  
LC No. 07-087446-NI

MASS TRANSPORTATION AUTHORITY,  
NAVARRO LOCKETT, and EDGAR BENNING,

Defendants-Appellants.

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Before: FORT HOOD, P.J., and DONOFRIO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Defendants, Mass Transportation Authority (MTA), Navarro Lockett, and Edgar Benning, appeal as of right the trial court's denial of their motion for summary disposition in this governmental immunity case. Because under the facts as presented all three defendants are immune from liability, the trial court erred when it denied defendants' motion for summary disposition and we therefore reverse and remand to the trial court for entry of summary disposition in defendants' favor.

I

In September 2007, Rajah Allen Booth was sixteen years old and had just begun his junior year at Flint Schools of Choice earlier that month. This was his first year attending Flint Schools of Choice. Booth was living with his mother in an apartment complex located on Martin Luther King Avenue near Sherman Road in Flint, Michigan. According to Booth, he had applied for a bus pass to ride the school bus but had not received it yet. Booth testified that until he received a school bus pass he was riding the MTA bus to school and then back home. Booth had taken the MTA bus to and from school every day during the 2007 school year up to and including the day of the accident, which was a full week.

The bus stop that Booth used was located across the street from his apartment on Martin Luther King Avenue and Sherman Road. Booth testified that he used that particular bus stop because it was right across the street from his apartment. To get to the bus stop Booth had to walk across the street, and similarly, to get home from the bus stop he had to walk across the street. Booth testified that he had taken the MTA bus to a friend's house, to the mall, or to the

movies, but that riding the bus everyday was a new experience for him. He also testified that he was not familiar with any procedures or rules for getting on and off an MTA bus.

On September 12, 2007, defendant Lockett had been a bus driver for approximately 27 years and had a CDL license in excess of 20 years. Lockett had been driving the Sherman/Martin Luther King bus route for three to five years at that time. Lockett testified that at the location of the bus stop at Martin Luther King Avenue and Sherman Road: there are two lanes of traffic heading north and two lanes of traffic heading south on Martin Luther King Avenue; the speed limit is approximately 30 or 35 mph; there is no traffic control device on Martin Luther King Avenue at Sherman; there is no crosswalk; and, as a general rule, when his bus is stopped at that bus stop, traffic continues to proceed northbound in the other lane. Lockett testified that the next stop on Martin Luther King Avenue is Home Street which is approximately two blocks from Sherman, and Home Street has a traffic light and crosswalk.

In the afternoon of September 12, 2007, when Lockett arrived at the bus stop at Martin Luther King Avenue and Sherman Road, he stopped the bus at the bus stop, and recalls that three people exited the bus. He stated that a female student and a man exited the bus at the rear exit and Booth exited the bus at the front exit. Lockett looked in his left rearview mirror and saw a car approaching from behind that had just come out of a sharp curve in the road leading up to the bus stop. Instantly after noticing the car approaching, in his peripheral vision, Lockett saw Booth run across the front of the bus. When Lockett detected Booth, he sounded his horn and held it, but Booth did not acknowledge or react to the horn in any way and instead continued to run into traffic. When Booth proceeded past the front of the bus he was immediately hit by the right front fender of a red Grand Am. Lockett testified that from the time he stopped the bus and the first person exited the bus to the time Booth was hit was about 30 seconds. He also stated that his flashers (two on the back, two on the front, and side mount flashers along the side of the bus) were activated the entire time he was stopped at the curb.

In her affidavit, Tamika Laster stated that she was the driver of the automobile that struck Booth. She stated that she was driving at or below the speed limit north on Martin Luther King Avenue through the "S" curve on the avenue. When she entered the second turn of the curve she clearly saw the MTA bus parked next to the curb. As she approached the bus, Booth appeared and impact was instantaneous. She stated there was no time to react or try to avoid the collision because the time involved was less than a second.

As a result of the collision Booth was hospitalized and on a ventilator for 26 days. Booth's injuries required his arm to be amputated, half of his big toe to be removed, and several surgeries to avoid losing his leg. Booth also suffered a brain bleed and memory loss. His injuries have required extensive antibiotic treatment, and physical and psychological therapy. Booth testified that he has no recollection of the events on the day of the collision.

Booth's mother, Victoria Booth instituted this action as next friend of her son. The first amended complaint identified the MTA, Lockett, and Edgar Benning, the assistant general manager of the MTA, as defendants. The complaint set forth the following counts: Count I - Negligent Operation of a Motor Vehicle by Defendant Navarro Lockett; Count II - Negligence Per Se as to Navarro Lockett; Count III - Negligence/Gross Negligence - Navarro Lockett; Count IV - Negligent/Gross Negligent Placement and Continued Location of Bus Stop by the Mass

Transportation Authority (MTA); Count V - Gross Negligence - Edgar Benning; and, Count VI - Nuisance Per Se - MTA.

On August 29, 2009, defendants filed their motion for summary disposition pursuant to MCR 2,116(C)(7) arguing that plaintiff failed to plead claims in avoidance of governmental immunity against defendants and further that plaintiff cannot establish proximate cause on the part of defendants. The trial court heard oral argument on the matter on September 16, 2009. Early on in the hearing, plaintiff's counsel conceded Counts II, IV, and VI on the first amended complaint and the trial court then granted summary disposition in favor of defendants on those three counts. After entertaining the remainder of the argument, the trial court denied summary disposition to defendants on the remaining claims finding that questions of fact remained on the record. The trial court entered an order denying in part and granting in part defendants' motion for summary disposition based on governmental immunity on April 7, 2010. It is from this order that defendants appeal as of right.

## II

Defendants moved for summary disposition pursuant to MCR 2.116(C)(7), which "provides that a party may move for summary disposition on the ground that governmental immunity bars the claim." *Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club*, 283 Mich App 264, 278; 769 NW2d 234 (2009). This Court reviews "the trial court's ruling on a motion for summary disposition de novo. Governmental immunity is a question of law that is also reviewed de novo on appeal." *Kendricks v Rehfield*, 270 Mich App 679, 681-682; 716 NW2d 623 (2006) (internal citations omitted). When a motion is brought on the grounds of governmental immunity, this Court considers "all documentary evidence filed or submitted by the parties. A plaintiff can overcome such a motion for summary disposition by alleging facts that support the application of an exception to governmental immunity." *Burise v City of Pontiac*, 282 Mich App 646, 650; 766 NW2d 311 (2009). "[A] court must accept as true the plaintiff's well-pleaded factual allegations and construe them in the plaintiff's favor . . . . If no facts are in dispute, and reasonable minds could not differ on the legal effect of those facts, whether the plaintiff's claim is barred is a question for the court as a matter of law." *Guerra v Garratt*, 222 Mich App 285, 289; 564 NW2d 121 (1997) (internal quotation omitted). The claims in this case involve the governmental immunity act, MCL 691.1401 *et seq.* "This Court also reviews de novo questions of statutory interpretation." *State Farm Fire & Cas Co v Corby Energy Servs*, 271 MichApp 480, 483; 722 NW2d 906 (2006).

## III

Defendants first argue that the MTA is entitled to summary disposition on the basis of governmental immunity because plaintiff failed to establish that his injuries "resulted from" the "negligent operation" of the MTA bus under the motor vehicle exception to governmental immunity, MCL 691.1405. Governmental agencies are generally immune from tort liability when carrying out a governmental function, although a number of exceptions exist to this general rule. *Curtis v City of Flint*, 253 Mich App 555, 558-560; 655 NW2d 791 (2002). Specifically, pursuant to MCL 691.1407(1), "[e]xcept as otherwise provided in this act, a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function."

There are six exceptions to this blanket immunity, under which a governmental agency may be liable in tort. *Lash v Traverse City*, 479 Mich 180, 195 n 33; 735 NW2d 628 (2007). One such exception is the motor vehicle exception, MCL 691.1405. That exception provides:

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner, as defined in Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

A bus is a motor vehicle within the meaning of this section. *Stanton v Battle Creek*, 466 Mich 611, 618; 647 NW2d 508 (2002). This section applies to the negligent operation of a government owned motor vehicle, but the mere involvement of such a motor vehicle is not sufficient to obviate immunity. *Peterson v Muskegon County Bd of Road Comm'rs*, 137 Mich App 210, 214; 358 NW2d 28 (1984). “The language ‘operation of a motor vehicle’ means that the motor vehicle is being operated as a motor vehicle.” *Chandler v County of Muskegon*, 467 Mich 315, 320; 652 NW2d 224 (2002). “The ‘operation of a motor vehicle’ encompasses activities that are directly associated with the driving of a motor vehicle.” *Id.* at 321.

Plaintiff argues in her brief on appeal that at the time defendant Lockett was sitting behind the wheel of his government owned bus that had just let off passengers and was waiting to depart for its next stop was the operation of a motor vehicle. Indeed, in *Martin v Rapid Inter-Urban Transit P'ship*, 480 Mich 936, 740 NW2d 657 (2007), our Supreme Court held that, “[t]he loading and unloading of passengers is an action within the ‘operation’ of a shuttle bus.” Here, defendant Lockett in his MTA bus had approached the curb, stopped at the bus stop, engaged his flashers, opened the doors for the exiting passengers, waited for passengers to exit the bus, and then began readying to move to the next stop by checking his left rearview mirror before departing to the next stop. The bus was running the whole time, Navarro was behind the wheel, and when he saw Booth running across the front of the bus he engaged his horn. And the entire time from the bus stopping at the bus stop to the collision took only 30 seconds. Considering all the facts, we conclude that at the time of the accident, the bus was being operated “as a motor vehicle.” *Chandler*, 467 Mich at 320.

However, under the motor vehicle exception, MCL 691.1405, “[g]overnmental agencies shall be liable for bodily injury and property damage *resulting from* the *negligent operation* by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner . . . .” (Emphasis added.) Our Supreme Court examined the meaning of the “resulting from” language in MCL 691.1405 in *Robinson v City of Detroit*, 462 Mich 439, 439; 613 NW2d 307 (2000). There, the Court was faced with the question whether governmental entities could be liable for injuries to innocent passengers who were riding in cars being pursued by police. *Id.* at 447-449. In each instance, the police vehicles did not make contact with the cars; rather, during the chases, one car collided into a house and the other car hit an uninvolved vehicle. *Id.* at 448-449. In light of the fact that the immunity granted by MCL 691.1407 is broad and the exceptions are to be narrowly construed, the Court rejected an analysis based on a broader notion of “but for” or proximate cause. *Id.* at 456-457, 457 n 14. Rather, it invoked the need for more direct causation, opining that the plaintiffs “cannot satisfy the

‘resulting from’ language of the statute where the pursuing police vehicle did not hit the fleeing car or otherwise physically force it off the road or into another vehicle or object.” *Id.* at 457.

In *Curtis*, a third-party driver noticed an emergency vehicle approaching from a highway exit ramp and so the driver “abruptly moved his vehicle to the curb lane and stopped” in order to allow the emergency vehicle onto the road against a red traffic signal. *Curtis*, 253 Mich App at 557. The plaintiff, who was driving in the curb lane a short distance behind the driver, rear-ended the driver’s car. *Id.* This Court concluded that the defendant city was immune from liability, stating that the trial court:

correctly read *Robinson* to require that the emergency vehicle at issue . . . be physically involved in the collision that caused [the] plaintiff’s injuries, either by hitting plaintiff’s vehicle or by physically forcing that vehicle off the road or into another vehicle or object. [*Id.* at 562.]

Thus, application of the motor vehicle exception, MCL 691.1405 requires a plaintiff to prove that the vehicular accident physically involved a government-owned vehicle, *Curtis*, 253 Mich App at 562, and this proof can be based on physical contact between the governmental agency’s vehicle and the plaintiff’s vehicle, or it can be based on the governmental agency’s vehicle “‘otherwise physically forc[ing the plaintiff’s vehicle] off the road or into another vehicle or object.’” *Id.* at 560, quoting *Robinson*, 462 Mich at 457.

Plaintiff specifically asserts that “the blowing of the horn by Navarro Lockett constitutes direct physical contact that forced plaintiff into the path of the striking vehicle.” Plaintiff further explains that “[a] real physical reaction occurs when a loud noise such as a horn reaches the eardrum. It is equivalent to a blast of hot air blown on the skin. The air burns the skin, the physical vibrations of the horn was the physical forces [sic] that forced Plaintiff into the path of the car.” In support of this assertion, plaintiff provides the affidavit of bus safety expert John S. Fabian who opines that defendant’s use of his horn was a “confusing warning” that could cause the pedestrian to believe he needed to get out of the way of the path of the bus “only to have the pedestrian potentially move into the path of oncoming traffic, as did happen in this accident.” Plaintiff’s assertion is nothing more than conjecture or speculation and Fabian’s opinion is a conclusion based on that conjecture or speculation. Conjectures, speculations, conclusions, and mere allegations or denials are not sufficient to create a question of fact for the jury. *LaMothe v Auto Club Ins Ass’n*, 214 Mich App 577, 586; 543 NW2d 42 (1995); *Cloverleaf Car Co v Phillips Petroleum Co*, 213 Mich App 186, 192-193; 540 NW2d 297 (1995); *Neubacher v Globe Furniture Rentals*, 205 Mich App 418, 420; 522 NW2d 335 (1994); *SSC Assoc Ltd Partnership v Detroit Gen Retirement Sys*, 192 Mich App 360, 364; 480 NW2d 275 (1991).

Moreover, the only concrete evidence on the record regarding this issue is Lockett’s testimony that he immediately sounded the horn in an effort to avert the impending collision when he saw Booth proceeding into traffic. Lockett testified that Booth ran in front of the bus and did not acknowledge or react to the sound of the horn in any way. Plaintiff presented the affidavit of witness Terrance Gillespie who averred that Booth walked, rather than ran, in front of the bus and into traffic. Gillespie never mentioned that Booth reacted to the horn in any way or that the horn startled Booth and that Booth moved into traffic as a result of the horn. The record also shows that even if Booth, while proceeding in front of the bus was somehow startled

by the horn, Booth clearly had another option, he could have stopped and walked in the other direction back to the bus stop at the curb. He did not have to move into oncoming traffic whether he was running or walking. On this record, plaintiff has not presented a justiciable question of fact with regard to Navarro's action of sounding the horn somehow physically forcing Booth into the path of the oncoming vehicle. *Curtis*, 253 Mich App at 560, quoting *Robinson*, 462 Mich at 457. MTA is entitled to summary disposition on the basis of governmental immunity because plaintiff has failed to establish that Booth's injuries "resulted from" the "negligent operation" of the MTA bus under the motor vehicle exception to governmental immunity, MCL 691.1405.

#### IV

Defendants next argue that the trial court erred in refusing to grant defendant Lockett summary disposition because his conduct did not amount to gross negligence that was "the" proximate cause of the accident where Lockett sounded his horn in an effort to warn Booth of the approaching vehicle, and the immediate cause of his injury occurred when he ran out into oncoming traffic and was struck by a motor vehicle driven by a third party. "The governmental immunity act provides 'broad immunity from tort liability to governmental agencies whenever they are engaged in the exercise or discharge of a governmental function.'" *Linton v Arenac County Road Commission*, 273 Mich App 107, 111; 729 NW2d 883 (2006), quoting *Ross v Consumers Power Co. (On Rehearing)*, 420 Mich 567, 595; 363 NW2d 641 (1984). Under the act, governmental employees are immune from suit "if they were acting within the scope of their authority, were 'engaged in the exercise or discharge of a governmental function,' and their conduct did not 'amount to gross negligence that is the proximate cause of the injury or damage.'" *Miller v Lord*, 262 Mich App 640, 644; 686 NW2d 800 (2004), quoting MCL 691.1407(2)(b) and (c).

"The determination whether a governmental employee's conduct constituted gross negligence that proximately caused the complained-of injury under MCL 691.1407 is generally a question of fact, but, if reasonable minds could not differ, a court may grant summary disposition." *Briggs v Oakland County*, 276 Mich App 369, 374; 742 NW2d 136 (2007).

"'Gross negligence' means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." *Odom v Wayne County*, 482 Mich 459; 760 NW2d 217 (2008), quoting MCL 691.1407(7)(a). "The plain language of the governmental immunity statute indicates that the Legislature limited employee liability to situations where the contested conduct was substantially more than negligent." *Maiden v Rozwood*, 461 Mich 109, 121; 597 NW2d 817 (1999). Gross negligence involves "almost a willful disregard of precautions or measures to attend to safety and a singular disregard for substantial risks. It is as though, if an objective observer watched the actor, he could conclude, reasonably, that the actor simply did not care about the safety or welfare of those in his charge." *Tarlea v Crabtree*, 263 Mich App 80, 90; 687 NW2d 333 (2004).

On this record we cannot say that defendant Lockett's conduct of sounding the horn rose to the level of gross negligence. Again, gross negligence is defined as "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results." *Odom*, 482 Mich 459, quoting MCL 691.1407(7)(a). Here, when Lockett saw the approaching vehicle in his left

rearview mirror and then a split second later saw Booth proceeding into traffic in his peripheral vision, Lockett sounded the bus's horn in an attempt to alert Booth of the forthcoming vehicle and warn him of impending danger. Lockett was clearly attempting to thwart the accident and protect Booth from injury. Clearly, these facts show a substantial concern for whether Booth was injured, not the converse.

Defendants also assert that plaintiff cannot show that Lockett was grossly negligent when he stopped the MTA bus at a curve with visibility of less than 500 feet, in violation of a City of Flint Ordinance and did not instruct Booth to exit at the rear of the bus in violation of MTA Operating Procedures. City of Flint Ordinance § 28-85.1(4)(b) provides as follows:

No bus driver shall stop his or her bus for the purpose of receiving or discharging passengers unless the bus is clearly visible in its stopped position to approaching or overtaking drivers of vehicles for a distance of at least 500 feet.

And, MTA Operating Procedures #008 "Passenger Boarding and Deboarding" states as follows in pertinent part:

Bus operators will board passengers through the front door and deboard passengers utilizing the rear door with the exception of the Transportation center where the front door will be used.

The operator must remind passengers to deboard by exiting at the rear. This will be accomplished by the operator courteously requesting the passengers to use the rear door.

While there may exist a question of fact with regard to Lockett's conduct in relationship to both § 28-85.1(4)(b) and MTA #008, under the facts and circumstances presented his conduct simply does not rise to the level of gross negligence as a matter of law. Lockett had driven this route for many years, was an experienced and trained driver, and stopped at the bus stop at issue without incident countless times. He testified that he never considered whether the bus stop location was dangerous and only directed younger children to deboard using the rear exit. "It is well established that violation of an ordinance is evidence of negligence." *Cassibo v Bodwin*, 149 Mich App 474, 477; 386 NW2d 559 (1986). And, "[e]vidence of ordinary negligence does not create a question of fact regarding gross negligence." *Love v Detroit*, 270 Mich App 563, 565; 716 NW2d 604 (2006).

Because we have concluded that Lockett's conduct was not grossly negligent we need not address the question of whether Lockett's actions constituted "the" proximate cause of plaintiff's injuries. Though, we will briefly discuss the issue. Our Supreme Court instructs us that: "The phrase 'the proximate cause' is best understood as meaning the one most immediate, efficient, and direct cause preceding an injury." *Robinson*, 462 Mich at 459. "Further, recognizing that 'the' is a definite article, and 'cause' is a singular noun, it is clear that the phrase 'the proximate cause' contemplates *one* cause." *Id.* at 462; see also, *Cooper v Washtenaw County*, 270 Mich App 506, 509; 715 NW2d 474 (2006). Here, after our review of the record, we conclude that reasonable minds could not differ that Lockett's conduct was not "the" proximate cause of Booth's injuries when Booth stepped out into oncoming traffic and into the direct path of

Laster's approaching vehicle. On this record, plaintiff has not presented sufficient evidence to create a question of fact regarding whether Lockett's actions constituted "the" proximate cause of plaintiff's injuries.

## V

Finally, defendants contend that the trial court erred in refusing to grant defendant Edgar Benning summary disposition because his conduct did not amount to gross negligence that was "the" proximate cause of the accident where his conduct constituted, at best, ordinary negligence, and where the immediate cause of Booth's injury occurred when he ran out into oncoming traffic and was struck by a motor vehicle driven by a third party.

Defendant Benning has been employed by the MTA for 28 years. In 1980, MTA hired Benning as the assistant superintendent of bus operations, in 1981 he became the superintendent of bus operations, in 1997 he became the director of customer services and marketing, and in 2001 he became the assistant general manager. In these positions, Benning has had different and overlapping responsibilities. From 1981 to 1997 Benning was responsible for supervising bus operators and oversight of bus routes, service schedules, and customer complaints. From 1997 to 2001 Benning was responsible for marketing, handling of customer service complaints, service requests, and public relations. And from 2001 to present Benning has handled all the customer services side of the business. At various times throughout his career at the MTA, Benning has been responsible for the placement of bus stops, stop signs, shelters, and bus operator safety.

In his estimation, the MTA operates approximately 500 stops throughout the public transportation system. Benning testified that he has reviewed the location of certain bus stops for safety as part of his positions. Benning testified that the MTA does not "have a policy to review existing bus stops to see if they meet any kind of safety standards for the passengers that ride [the] bus." He stated that he never reviewed the bus stop at Martin Luther King and Sherman because in his 28 years at the MTA there had never been any accidents or issues with that particular stop. He also stated that the bus stop was in place before his tenure with the MTA and he was not aware of any issues from that time. Benning testified that he and the MTA are always concerned about the safety of its passengers as a transportation provider including during boarding and deboarding of the bus. Considering the history of the stop, the lack of incidents, and the location of the stop, Benning was not concerned about the safety of the bus stop even after learning about Booth's accident and has not relocated the bus stop.

Booth alleges that Benning is grossly negligent because he exhibited a conscious disregard for safety when he did not review the location of the bus stop and in doing so he showed a total lack of concern for the safety of MTA passengers including Booth. But Booth ignores the fact that there had been no accidents or complaints about the safety of that bus stop location in over 28 years. Lockett testified that he had driven that route for several years and had never had an issue with the bus stop and never reported a safety concern about that stop. Indeed, Benning had wide discretion in his position to review bus stop placement but plaintiff presented no evidence that there was an MTA policy in place requiring Benning to review existing bus stops for safety. In fact, Benning testified that the MTA had no policy requiring review of existing bus stops.

Given these facts, we cannot say that Benning's conduct rose to the level of gross negligence. Benning testified that he was concerned about the safety of MTA passengers and had reviewed the safety of stops when issues arose including customer complaints. Plaintiff has presented no evidence to the contrary. Again, gross negligence involves "almost a willful disregard of precautions or measures to attend to safety and a singular disregard for substantial risks. It is as though, if an objective observer watched the actor, he could conclude, reasonably, that the actor simply did not care about the safety or welfare of those in his charge." *Tarlea*, 263 Mich App at 90. Plaintiff cannot meet this standard when Benning had over 500 stops to oversee, in over 28 years not one complaint was raised about the safety of the stop at Martin Luther King and Sherman, no accidents had ever occurred at that stop before the accident at issue, and in none of his positions was Benning required to review existing bus stops for safety as a result of a written MTA policy or otherwise.

Similar to Lockett, because we have concluded that Benning's conduct was not grossly negligent we need not address the question of whether Benning's actions constituted "the" proximate cause of plaintiff's injuries. Though, the record is clear that reasonable minds could not differ that Benning's conduct was not "the" proximate cause of Booth's injuries when Booth stepped out into oncoming traffic and into the direct path of Laster's approaching vehicle. On this record, plaintiff has not presented sufficient evidence to create a question of fact regarding whether Benning's actions constituted "the" proximate cause of plaintiff's injuries.

## VI

Under the facts as presented, reasonable minds could not differ on the legal effect of those facts, and defendants are governmentally immune from liability. As such, plaintiff's claim is barred as a matter of law.

Reversed and remanded for entry of summary disposition in defendants' favor. We do not retain jurisdiction. Defendants, being the prevailing parties, may tax costs pursuant to MCR 7.219.

/s/ Karen M. Fort Hood  
/s/ Pat M. Donofrio  
/s/ Amy Ronayne Krause