

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

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DORA TOPALOVSKA,

Plaintiff-Appellant,

v

MARGARITA TOPALOVSKA,

Defendant-Appellee,

and

FREDERICKA LOUIS STOKES,

Defendant.

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UNPUBLISHED

July 27, 1999

No. 207337

Oakland Circuit Court

LC No. 96-514028 NI

Before: Sawyer, P.J., and Holbrook, Jr., and W. E. Collette,\* JJ.

MEMORANDUM.

Plaintiff appeals by right from a final order dismissing this automobile negligence action, challenging the trial court's previous ruling granting summary disposition in favor of defendant Margarita Topalovska only. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court granted defendant Topalovska's motion for summary disposition pursuant to MCR 2.116(C)(10), on grounds that there is no evidence of any negligence on defendant Topalovska's part. On appeal, plaintiff contends a genuine factual issue was presented as to whether defendant Topalovska was negligent because she had turned her head away from the road when the accident occurred. We disagree.

At her deposition, plaintiff did testify that defendant Topalovska had turned her head to talk to one of the children in the back seat of her car at the time the accident occurred, but plaintiff also admitted that she had no idea whether defendant Topalovska had actually taken her eyes off the road.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Furthermore, plaintiff's testimony provides absolutely no information regarding how much time passed between the time that defendant Topalovska allegedly turned her head and the time of impact. In contrast, defendant Topalovska's affidavit asserts that the proximity of the vehicles at the time defendant Stokes unexpectedly made a sudden, improper right-hand turn was such that an accident was unavoidable under any circumstances, ie., regardless of whether Topalovska's eyes were on or off the road at the time.

A party opposing a motion for summary disposition must present more than conjecture and speculation to meet their burden of providing evidentiary proof establishing a genuine issue of material fact. *Libralter Plastics, Inc v Chubb Group of Ins Cos*, 199 Mich App 482, 486; 502 NW2d 742 (1993). Here, plaintiff's deposition testimony fails to offer anything more than mere speculation whether defendant Topalovska ever completely took her eyes off the road prior to the accident, much less any facts suggesting that defendant Topalovska's supposed momentary inattention to the road resulted in the loss of any actual opportunity to avoid or lessen the impact with Stokes' vehicle.

Affirmed.

/s/ David H. Sawyer

/s/ Donald E. Holbrook, Jr.

/s/ William E. Collette