

STATE OF MICHIGAN
COURT OF APPEALS

SHARON ANN LOCKWOOD and DAVIE
LOCKWOOD,

UNPUBLISHED
February 21, 2003

Plaintiffs-Appellants,

v

DENNIS ARNOLD WNUK,

No. 237088
Lapeer Circuit Court
LC No. 00-027977-NI

Defendant-Appellee.

Before: Bandstra, P.J., and Murphy and Griffin, JJ.

BANDSTRA, P.J. (*concurring in part and dissenting in part*).

I would reverse the order granting summary disposition to defendant and remand for further proceedings as to all of plaintiffs' claims. I do so only because, as explained by Judge Griffin's concurring opinion, defendant's motion lacked the admissible evidentiary support required by the rules. As is also pointed out, plaintiffs failed to object on this basis but instead responded in kind. The result is a record devoid of the kind of evidence we need to review whether a genuine issue of material fact exists as to plaintiffs' claims. Thus, unlike my colleagues, I would conclude that the trial court erred in granting summary disposition to defendant on any of plaintiffs' injury claims.

I express no opinion on whether, should defendant produce on remand admissible evidence consistent with the inadmissible documentation so far produced, summary disposition would be warranted against plaintiffs' claims, in whole or in part. I further express no opinion on whether, should it be determined following trial that the statutory threshold is satisfied as to some but not all of plaintiffs' injuries, plaintiffs would be entitled to noneconomic damages arising out of all the injuries.

/s/ Richard A. Bandstra