

STATE OF MICHIGAN  
COURT OF APPEALS

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JON PAUL HEWITT, a Minor, by his Next  
Friend, RENEE HEWITT,

UNPUBLISHED  
March 25, 2003

Plaintiff-Appellant,

and

DOMINIC HEWITT, a Minor, by his Next  
Friend, RENEE HEWITT,

Plaintiff,

v

GARY D. BUCKLEY, JR., EXPEDIENT  
PROCESS SERVING, and HERNDON &  
HERNDON INVESTIGATIONS, INC.,

No. 238211  
St. Clair Circuit Court  
LC No. 00-002801-NI

Defendants-Appellees.

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KELLY, P.J. (*dissenting*)

I respectfully dissent. In determining whether a factual dispute exists with respect to the extent of plaintiff's injuries, a court should compare plaintiff's lifestyle before and after the accident. *May v Sommerfield (After Remand)*, 240 Mich App 504, 506; 617 NW2d 920 (2000). A plaintiff must show that his general ability to lead a normal life has been significantly altered by his injury. *Miller v Purcell*, 246 Mich App 244, 250; 631 NW2d 760 (2001).

While I agree that plaintiff's injuries were objectively manifested and initially serious, plaintiff failed to establish that his wrist injury affected his "general ability" to lead his normal life. *May v Sommerfield*, 239 Mich App 197, 202-203; 607 NW2d 422 (1999). Rather, the record establishes that plaintiff's ability to lead a normal life was not significantly altered by his injuries. Plaintiff returned to school four weeks after the accident. He resumed playing basketball, participating in other sports activity, and working part-time. When the school year ended, he began working full-time as a carpenter, notably without restrictions. Plaintiff failed to identify any significant activity that he is no longer able to engage in. The record is clear that his lifestyle, both pre- and post-accident, were virtually identical.

Although plaintiff has residual pain and will have follow-up out-patient surgery on his wrist, his deposition testimony did not reveal that this negatively affected his day-to-day lifestyle. Accordingly, I would find that the trial court properly granted summary disposition and would affirm.

/s/ Kirsten Frank Kelly