STATE OF MICHIGAN

COURT OF CLAIMS

JONATHON RAPTOULIS,

Plaintiff,

v

Case No. 24-000103-MZ

Hon. Randy J. Wallace

MICHIGAN DEPARTMENT OF TRANSPORTATION and STATE OF MICHIGAN,

Defendants.
_____ /

OPINION AND ORDER DENYING IN PART DEFENDANTS' MOTION FOR SUMMARY DISPOSITION AND ORDERING SUPPLEMENTAL BRIEFING

In this automobile no-fault action, plaintiff Jonathon Raptoulis asserts claims against defendants—the Michigan Department of Transportation (MDOT) and the State of Michigan—which are self-insured entities for purposes of no-fault liability. Defendants move for summary disposition under MCR 2.116(C)(7) (immunity; payment) and (10), arguing that they paid plaintiff's first-party claim in full and that no genuine issues of material fact exist on the issues of negligence or threshold injury for purposes of plaintiff's third-party claim. The Court dispenses with a hearing because the briefing is adequate to address the issues. Because questions of fact exist on negligence and threshold injury, this Court DENIES defendants' motion for summary disposition of Count I. The Court ORDERS supplemental briefing on plaintiff's first-party claim in Count II, as detailed below.

I. BACKGROUND

The accident giving rise to this lawsuit occurred on October 2, 2023, on eastbound I-94, near the 23 Mile Road overpass, in Chesterfield Township, Michigan. The section of I-94 where the accident occurred was under construction, and the far-right lane was closed to traffic. The freeway had two lanes open in each direction, and a nearby on-ramp from 23 Mile Road created a temporary far-right lane to allow for merging. There is no paved shoulder on the left-hand side of the roadway on either side of I-94 in this area. Instead, there is a grassy median with a guardrail.

A white box truck driven by Jacob Kramer merged into the far-left lane, which was occupied by an F-250 owned by MDOT (the MDOT vehicle) and driven by MDOT employee John Crumm. Defendants have presented evidence to support that Kramer swiftly entered into the left lane to avoid a collision with another vehicle (an Equinox) that was merging onto the right lane of the freeway. To avoid colliding with Kramer's truck, Crumm went at least partially off the roadway and onto the grassy area.

According to plaintiff, he was traveling on a motorcycle in the left lane of the freeway when the MDOT vehicle attempted to reenter the roadway, struck plaintiff's motorcycle, and caused plaintiff to fall and injure his ankle. Plaintiff has consistently maintained that the MDOT vehicle was the vehicle that struck him. Plaintiff was found after the incident sitting on the side of the freeway, injured but alert. He reported being "side swiped by another car going 70mph."

MDOT contends that when Crumm reentered the left lane of the freeway, plaintiff was either not paying attention or was following too closely and did not have time to slow down. Thus, in MDOT's view, plaintiff was more than 50% at fault for the accident. Crumm initially drove away from the scene. Crumm maintains that he was not aware that he was involved in an accident

at first but then pulled over to inspect the truck after noticing damage on the driver's side, which he believed was from contact with a guardrail on the grassy area on the side of the road. Crumm eventually returned to the scene and spoke with the police.

Plaintiff was taken directly from the accident site to the hospital after complaining of leg and ankle pain. Imaging studies revealed that he suffered an ankle fracture, as well as visible abrasions on his knees and right elbow. He was placed in a splint, given crutches, and ordered not to bear weight on the left leg.

Plaintiff subsequently filed this two-count lawsuit. MDOT assumed responsibility for plaintiff's medical bills and represents that it has paid all bills that were supplied as of the date of the motion for summary disposition. Plaintiff, in response, has supplied the Court with bills that he claims have not been paid. Following discovery, defendants moved for summary disposition of both claims, arguing that (1) all outstanding, substantiated medical bills have been paid, (2) Crumm's operation of the MDOT vehicle was not negligent, and (3) plaintiff did not suffer a serious impairment of body function entitling him to third-party benefits. Plaintiff responded to the motion, and defendants replied.

II. ANALYSIS

Defendants moved for summary disposition under MCR 2.116(C)(7) in relation to the claim for first-party no-fault benefits. MCR 2.116(C)(7) allows for entry of judgment on the basis of "payment."

> When reviewing a motion under MCR 2.116(C)(7), this Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them. If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if

> reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Dextrom v Wexford Co*, 287 Mich App 406, 428-429; 789 NW2d 211 (2010).]

Defendants request summary disposition under MCR 2.116(C)(10) in relation to plaintiff's third-party claim. A motion for summary disposition under this subrule examines the factual sufficiency of the claim. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). "[The] trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion." *Id*. A motion for summary disposition under MCR 2.116(C)(10) may only be granted when no genuine issue of material fact exists. *Id*. " 'A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ.' " *Id*. (citation omitted).

A. NEGLIGENCE

Count I of the complaint is a claim for negligent operation of a state-owned motor vehicle. MCL 691.1405 outlines an exception to governmental immunity for negligent operation of a government-owned motor vehicle. The statute 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. . . ." *Id*. Plaintiff invoked this exception to governmental immunity and alleged that he is entitled to third-party benefits under MCL 500.3135, which provides, in relevant part, "A person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle . . . ." MCL 500.3135(1).

The parties dispute whether the evidence gives rise to a genuine issue of material fact on whether Crumm breached his duty to operate his vehicle with due care and caution. To establish

negligence, a plaintiff must prove the following elements: "(1) the defendant owed the plaintiff a legal duty, (2) the defendant breached the legal duty, (3) the plaintiff suffered damages, and (4) the defendant's breach was a proximate cause of the plaintiff's damages." *Loweke v Ann Arbor Ceiling & Partition Co, LLC*, 489 Mich 157, 162; 809 NW2d 553 (2011). As the Michigan Court of Appeals has observed, "[i]t is the motorist's duty in the use and operation of his automobile to exercise ordinary and reasonable care and caution, that is, that degree of care and caution which an ordinarily careful and prudent person would exercise under the same or similar circumstances." *White v Pace*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 371878); slip op at 4 (alteration in original).

There is no dispute that (1) Crumm was an MDOT employee at the time of the accident, (2) the MDOT vehicle was a state-owned vehicle, and (3) plaintiff sustained an injury during the accident. The focus of the motion is on whether Crumm's operation of the MDOT vehicle was negligent. Plaintiff cites a provision of the Michigan Vehicle Code, MCL 257.642, which provides, in relevant part:

> (1) If a roadway is divided into 2 or more clearly marked lanes for traffic, the following rules in addition to all other rules that are consistent with this act apply:
>
> (a) A vehicle must be driven as nearly as practicable entirely within a single lane and must not be moved from the lane until the operator has first ascertained that the movement can be safely made. [MCL 257.642(1)(a).]

Viewing the evidence in the light most favorable to plaintiff, a genuine issue of material fact exists on whether Crumm breached his duty to operate the MDOT vehicle with due care and caution when he moved the MDOT vehicle back onto the roadway and into the lane occupied by plaintiff's motorcycle. Even if Crumm moved off the roadway to avoid a collision with Kramer, Crumm's initial move into the median of the highway is not the focus of this case. Rather, a

question of fact exists on whether Crumm's decision to reenter the roadway when he did and reenter the lane occupied by plaintiff was a breach of his duty to operate his vehicle with due care and caution.

B. SERIOUS IMPAIRMENT

Defendants next argue that no genuine issue of material fact exists on whether plaintiff suffered a threshold injury allowing him to recover third-party benefits. Plaintiff asserted in his complaint that he suffered both a serious impairment of body function and a permanent serious disfigurement, but the parties' briefs focus on serious impairment. Therefore, the Court will also focus on this type of threshold injury.

Liability for noneconomic losses arising out of the "ownership, maintenance, or use of a motor vehicle" is limited to situations in which the "injured person has suffered death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). "[S]erious impairment of body function" is defined as an impairment that meets the following three requirements:

> (a) It is objectively manifested, meaning it is observable or perceivable from actual symptoms or conditions by someone other than the injured person.
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> (b) It is an impairment of an important body function, which is a body function of great value, significance, or consequence to the injured person.
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> (c) It affects the injured person's general ability to lead his or her normal life, meaning it has had an influence on some of the person's capacity to live in his or her normal manner of living. Although temporal considerations may be relevant, there is no temporal requirement for how long an impairment must last. This examination is inherently fact and circumstance specific to each injured person, must be conducted on a case-by-case basis, and requires comparison of the injured person's life before and after the incident. [MCL 500.3135(5).]

An objectively manifested impairment "is evidenced by actual symptoms or conditions that someone other than the injured person would observe or perceive as impairing a body function." *McCormick v Carrier*, 487 Mich 180, 196; 795 NW2d 517 (2010). When considering this first prong of the serious impairment analysis, the focus is on "whether the *impairment* is objectively manifested, not the *injury* or its symptoms." *Id*. at 197. For plaintiff's impairment to be objectively manifested, there must be "evidence establishing that there is a physical basis for their subjective complaints of pain and suffering." *Id*. at 198 (quotations marks and citation omitted). Medical testimony is generally, but not always, required to show an objectively manifested impairment. *Patrick v Turkelson*, 322 Mich App 595, 607; 913 NW2d 369 (2018).

"[T]o 'affect' the person's 'general ability' to lead his or her normal life is to influence some of the person's power or skill, i.e., the person's capacity, to lead a normal life." *McCormick*, 487 Mich at 201. This is a subjective, person-specific analysis that examines what a normal life was for the person who was injured. *Id*. at 202. The individual's ability to live their normal life must only be affected, not completely destroyed. *Id*. There is no requirement that the impairment last for a certain amount of time. *Patrick*, 322 Mich App at 607. "[T]here is no quantitative minimum as to the percentage of a person's normal manner of living that must be affected." *McCormick*, 487 Mich at 203.

> The issues of whether the injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:
>
> (*i*) There is no factual dispute concerning the nature and extent of the person's injuries.
>
> (*ii*) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination whether the person has suffered a serious impairment of body function or permanent serious disfigurement. [MCL 500.3135(2)(a).]

There is no dispute that plaintiff suffered a broken bone in his left ankle, as established through imaging studies and through the swelling and deformity of plaintiff's ankle observed by the emergency medical personnel who transported him to the hospital. The injury required the use of crutches and a full cast for at least two weeks. This was an objectively manifested injury. There is no dispute that the use of the left leg is an important body function.

As for whether the impairment affected plaintiff's general ability to lead his normal life, at the time of the accident, plaintiff worked as a chef, which required him to spend about 8 to 12 hours on his feet per shift. Plaintiff, who was in his early 30s, regularly played basketball and engaged in other recreational activities before the accident. For two to three weeks following the accident, plaintiff required crutches to ambulate. He needed assistance with household tasks and other activities of daily living. He has never been able to return to playing basketball at the level he enjoyed before the accident, including being able to jump only about one-third of the height he could previously jump, and being unable to sprint continuously. He experiences soreness in his ankle after standing at work and after engaging in physical activity. Plaintiff fears reinjuring his leg and has lost confidence in his athletic capabilities. According to a podiatrist plaintiff visited about four months after the accident, plaintiff's ankle "may never feel quite normal or the same." Considering that plaintiff continued to suffer from these symptoms for more than a year after the accident, the evidence demonstrates that the limitations caused by the accident may be permanent. Under *McCormick*, plaintiff need not demonstrate that his general ability to lead his normal life was destroyed; rather, he must demonstrate that it was affected. *McCormick*, 487 Mich at 202. For these reasons, a genuine issue of material fact exists on the issue of serious impairment of body function.

C. FIRST-PARTY BENEFITS

Finally, defendants argue that they are entitled to summary disposition of plaintiff's first-party claim because plaintiff admitted during discovery that MDOT paid all claimed benefits. Defendants acknowledge that the no-fault act, MCL 500.3105(1), provides for payment of first-party benefits, regardless of fault, when an individual sustains an accidental bodily injury arising from the ownership, operation, maintenance, or use of a motor vehicle. Plaintiff attached to his response brief medical bills that he contends have not been paid. It is unclear to the Court whether those bills were paid after briefing was completed. Therefore, the parties shall submit supplemental briefing addressing the status of plaintiff's claim for first-party benefits and whether the bills attached to plaintiff's response in opposition to summary disposition have been paid within 14 days of the date of this Opinion and Order.

IT IS ORDERED:

1. Defendants' motion for summary disposition of Count I is DENIED.
2. Defendants' motion for summary disposition of Count II remains pending.
3. Both parties shall submit supplemental briefing addressing the status of plaintiff's first-party claim within 14 days of this Opinion and Order.
4. This order does not resolve the last pending claim and does not close the case.

Date: September 17, 2026

Randy J. Wallace

Hon. Randy J. Wallace
Judge, Court of Claims

Court of Claims
TUEBOR
CIRCUMSPICE
State of Michigan