

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

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GALINA GARVISH,

Plaintiff-Appellant,

v

DON ANDRE BROWN and ALLSTATE  
INSURANCE COMPANY,

Defendants-Appellees.

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UNPUBLISHED

December 16, 2021

No. 355730

Macomb Circuit Court

LC No. 2019-002088-NI

Before: CAVANAGH, P.J., and SHAPIRO and GADOLA, JJ.

SHAPIRO, J. (*concurring*).

I concur in the result reached by the majority. I write separately to note that medical testimony is not required to demonstrate causation at the summary-disposition stage. Medical records demonstrating causation are sufficient and it is no secret that obtaining discovery depositions from treating physicians is very difficult. See also *Patrick v Turkelson*, 322 Mich App 595, 617; 913 NW2d 369 (2018) (“[A] plaintiff’s evidence of causation is sufficient at the summary disposition stage to create a question of fact for the jury if it establishes a logical sequence of cause and effect, notwithstanding the existence of other plausible theories . . . .”) (quotation marks and citation omitted). I also differ from the majority in that I would not rely on findings in the insurance medical examinations conducted by doctors of defendant’s choosing to conclude that there is insufficient evidence of causation or injury because the evidence at the summary-disposition stage must be taken in the light most favorable to the plaintiff.

Having said that, I agree with the majority that plaintiff has not demonstrated a causal relationship between the October 2016 crash and her present injuries and limitations that appear to have arisen from the January 2016 crash. The records do not provide a basis to conclude that there were new injuries or significant exacerbations to pre-existing injuries resulting from the October 2016 crash. And while the MRI reports on their face support plaintiff’s claim, the physician who read the cervical MRI done after the October 2016 crash conducted a comparison to the pre-October 2016 MRI and determined that there was “essentially no change,” and plaintiff has offered no rebuttal to that finding. Lastly, plaintiff’s inability to work or perform her activities at home clearly pre-existed the October crash.

/s/ Douglas B. Shapiro