

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DAVID C. LADWIG and  
JOANNE C. LADWIG,

Plaintiffs,

-v-

RICHARD'S AUTO PARTS and  
MICHAEL T. LERAY,

Defendants.

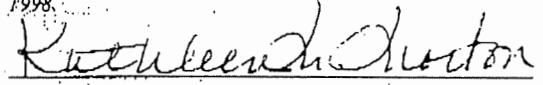
Case No. 1997-547290-NI  
Honorable Nanci J. Grant

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**PROOF OF SERVICE**

I certify that a copy of the above instrument was served upon the attorneys of record in the above case by mailing it to the attorneys at their business address as disclosed by the pleadings of record, with prepaid postage on December 22, 1998.

  
Kathleen M. Morton, Secretary to the Hon. Nanci J. Grant

**OPINION AND ORDER**

At a session of said Court, held in the Courthouse in the City of Pontiac, County of Oakland, State of Michigan on the 22nd day of December, 1998.

PRESENT: HONORABLE NANCIL J. GRANT, CIRCUIT JUDGE

This matter, having come before the Court on Plaintiff's motion for reconsideration, said motion is hereby GRANTED.


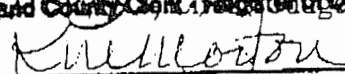
Plaintiff filed this suit seeking to recover damages for, among other things, a wrist injury suffered in an automobile accident. In its previous ruling, this Court found that Plaintiff's evidence established a question of fact that the wrist injury was objectively manifested and impaired an important body function. The Court found, however, that there was no factual basis for concluding that the injury affected the Plaintiff's general ability to lead his normal life. Thus, the Court dismissed that claim because Plaintiff could not establish that his injury was a serious impairment of an important bodily

function within the meaning of MCL 500.3135(1).

That ruling was based on the proposition that the statutory language was a codification of the Supreme Court's analysis in *Cassidy v McGovern*, 415 Mich 483 (1982), which was overruled by *DiFranco v Pickard*, 427 Mich 32 (1986). This proposition is undoubtedly correct, at least in certain respects. Compare, for example, *Cassidy* at 502 ("We hold that when there is no factual dispute regarding the nature and extent of a plaintiff's injuries, the question of serious impairment of body function shall be decided as a matter of law by the Court") with MCL 500.3135(2)(a) ("The issues of whether an injured person has suffered a serious impairment of body function . . . [is a] question of law for the court if . . . there is no factual dispute concerning the nature and extent of the person's injuries").

Plaintiff correctly points out, however, that one aspect of the *Cassidy* analysis was not revived by the statutory amendments. Under *Cassidy*, part of the definition of "serious impairment of body function" was "the effect of the injury on the person's general ability to live a normal life." *Id* at 505 (emphasis added.) Thus, under this interpretation the courts did not "look at how the injury affected the plaintiff's ability to work or perform his normal activities." *DiFranco, supra*, at 65. In the current version of the statute, however, "serious impairment of body function" is defined as an impairment "that affects the person's general ability to lead *his or her* normal life." This change from "a normal life" to "his or her normal life" suggests that the Legislature now intends "serious impairment of body function" to include an analysis of how the injury affected the plaintiff's ability to work or perform his normal activities.

The Court rejects Plaintiff's suggestion that, under the new language "it is only necessary to show that in injury in some way influenced, touched, or otherwise impacted the Plaintiff's life, *regardless of the degree of the impact.*" (Plaintiff's brief at 9) (emphasis in original). The Court agrees, however, that the evidence presented in this case is sufficient to support a finding that the wrist injury affects Plaintiff's ability to lead his or her normal life, as it indicates that he is unable to perform his job in the same capacity and manner as he was before and is unable to participate in hobbies and recreational activities. As this was the only basis for granting Defendant's motion, Plaintiff's motion is granted, the order granting summary disposition is vacated, and the case is reinstated.

  
A TRUE COPY  
G. WILLIAM CABELL  
NANCY GRANT, Clerk of the Court  
By  Deputy