

STATE OF MICHIGAN
COURT OF APPEALS

APR 25 1989

MARJORIE GIES,

Plaintiff-Appellant,

v

No. 104165

SATELLITE AUTO PARKING OF DETROIT,
INC., and LINDA EMMONS, jointly
and severally,

Defendants/Appellees

Before: Beasley, P.J., and Gillis and Brennan, JJ.

PER CURIAM.

Plaintiff appeals by right from an order for partial summary disposition entered on November 19, 1986, by the Wayne County Circuit Court. We affirm.

The trial court did not err in granting summary disposition in favor of defendants on plaintiff's claim for non-economic damages. The trial court found that plaintiff did not suffer a serious impairment of a bodily function under the standards set forth in Cassidy v McGovern, 415 Mich 483; 330 NW2d 22 (1982). The trial court's decision is amply supported by the lower court record.

We also conclude that our Supreme Court's decision in DiFranco v Pickard, 427 Mich 32; 398 NW2d 896 (1986), which dramatically changed the Cassidy requirements, is inapplicable to this case. The Supreme Court gave its decision in DiFranco limited retroactive application:

"Since several of today's holdings are new or inconsistent with those articulated in Cassidy, our decision applies to the five cases before us as well as to: (1) currently pending appeals in which an issue concerning the proper interpretation of the statutory phrase 'serious impairment of body function' has been raised, (2) trials in which a jury is instructed after the date of this decision, and (3) cases in which summary disposition enters after the date of this decision." 427 Mich at 75.

In the present case, summary disposition was entered before the date DiFranco was decided. Therefore, this case is governed by Cassidy, supra.

Affirmed.

/s/ William R. Beasley
/s/ John H. Gillis
/s/ Thomas J. Brennan