

S T A T E O F M I C H I G A N
C O U R T O F A P P E A L S

SAMUEL E. MORSE,
Plaintiff-Appellant,

MAR 16 1987

v

DEBORAH L. LOOMIS,
Defendant-Appellee.

No. 86476
FOR PUBLICATION

BEFORE: R.B. Burns, P.J., and Gribbs and R.I. Cooper*, JJ.

PER CURIAM

In this case, plaintiff sought recovery for noneconomic damages sustained after he was injured in an automobile accident. The trial court granted summary disposition, concluding that plaintiff's injuries did not constitute a serious impairment of body function or permanent serious disfigurement.

Subsequent to the submission of this case, the Supreme Court issued its opinion in DiFranco v Pickard, ___ Mich ___; ___ NW2d ___ (Nos. 74692, 74867, 75263, 75299, and 75811, rel'd December 23, 1986), which substantially altered the decision in Cassidy v McGovern, 415 Mich 483; 330 NW2d 22 (1982). Most significantly, the DiFranco opinion directs that the trier of fact, rather than the trial court, is to determine whether an injury constitutes a serious impairment of body function. DiFranco, slip op at 2-3. Accordingly, summary disposition will be appropriate in fewer cases than was the case under Cassidy. Rather than review this case ourselves, the more appropriate procedure is to remand the case to the trial court for reconsideration in light of DiFranco.

While DiFranco did not directly deal with the issue of permanent serious disfigurement, this Court has in the past applied Cassidy to the disfigurement cases. See Shortridge v Bailey, 145 Mich App 547; 378 NW2d 544 (1985); Williams v Payne, 131 Mich App 403; 346 NW2d 564 (1984). The trial court in the instant case appears to have followed suit and applied Cassidy to

*Circuit judge, sitting on the Court of Appeals by assignment.

the serious disfigurement issue as well. Accordingly, we direct the trial court to also reconsider the permanent serious disfigurement issue in light of DiFranco.

Remanded for reconsideration in light of DiFranco. We do not retain jurisdiction. No costs.

/s/ Robert B. Burns
/s/ Roman S. Gribbs
/s/ Richard I. Cooper