

Verdicts & Settlements

Counsel argued 'new' suit was identical to denied motion

Only one cause of action added

Dismissal

Defendant OUR Credit Union is a Royal Oak-based nonprofit credit union. Plaintiff Deborah Thompson is the former president/chief executive office of the credit union. Plaintiff's original complaint for alleged guaranteed severance compensation upon termination was filed Sept. 18, 2013. Plaintiff's asserted claims in her original complaint are breach of express contract; breach of implied contract; and wrongful discharge.

On June 25, 2014, plaintiff filed a motion to amend her complaint in order to add an additional cause of action, breach of written employment contract. This claim was based on an entirely new (and novel) factual theory. Plaintiff's motion was denied after oral argument, in an order dated July 2, 2014, for undue delay and without prejudice.

On July 8, 2014, plaintiff filed a separate lawsuit that contained the sole count that was requested to be added to the presently pending original suit.

Defendant argued at summary disposition filed pursuant to MCR 2.116(C)(6) that not only was plaintiff's filing of a new lawsuit arising out of the exact facts and circumstances as the instant case a transparent attempt to "get through the back door what could not be gotten

Type of action: Breach of contract
Name of case: *Thompson v. OUR Credit Union*
Court/Case no./Date: Oakland County Circuit Court; 14-141711-CK; Sept. 10, 2014
Tried before: Judge
Name of judge: Leo Bowman
Demand: \$150,000
Judgment: Dismissal of second complaint
Attorney for plaintiff: Richard B. Tomlinson
Attorney for defendant: Daniel J. McGlynn

through the front"; but plaintiff's recourse, if she believed error was committed by the court's ruling on her motion to amend complaint, was through appeal to the Michigan Court of Appeals, either interlocutory or after judgment.

Defense counsel noted that MCR 2.116(C)(6) clearly requires dismissal of this "new" suit, which, of course, is not new, but the identical suit as the original suit, with only one cause of action added.

Judge Leo Bowman granted dismissal of the second complaint under an MCR 2.116(C)(6) analysis in an Order dated Sept. 10, 2014.

Daniel J. McGlynn, defendant's counsel, provided case information.

Plaintiff sought damages for fatal axle-related accident

Case settled week before trial
 \$1.5 million

On Oct. 22, 2010, defendant Sloan Petroleum's tanker was traveling southbound on the Southfield Freeway approaching Outer Drive in Wayne County. A dual assembly broke off the axle, traveled down the freeway and bounced over the median, fatally striking plaintiff's decedent Ashley Thomas' car roof.

During discovery, it was learned that all four axles on the tanker had been butt welded at the spindles. Butt welding is a process where a flat surface is welded to another flat surface, significantly reducing the integrity of the axle. The point at which these axles were welded, the spindle, is the area where the axle holds the most weight.

There was no question that the axles were welded improperly, and defendant's expert agreed on that matter. The defense was that the owner of the petroleum trucks did not know that the axles were welded.

Plaintiff claimed that assertion to be a violation of the Federal Motor Carrier Safety Regulations, where § 3.96.3 specifically states that the motor carrier has a duty to insure the safety of the trailer by inspecting, repairing and maintaining, or causing to systemati-


Type of action: *Product Liability*
Name of case: *Thompson v. Sloan Petroleum Transportation*
Court/Case no./ Circuit Court; 11-00777
Name of judge:
Settlement amount:
Attorneys for plaintiff: Christensen, Mary Pat
Attorney(s) for defendant: Withheld



CHRISTENSEN

cally inspect, repair the parts, including the axle.


The case settled week before trial. Mary Pat Rosen, provided case i




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