

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

FILED

OCT 29 2014

CLERK OF CIRCUIT COURT #18
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

CHARLES MARTIN,

Plaintiff,

-vs-

UNITED STATES STEEL
CORPORATION and KEITH A. SMITH,

Defendants.

No. 13-L-2065

ORDER

The matter before the court is defendants' motion for summary judgment. The court, having reviewed the record, submissions and arguments of counsel, and being fully advised in the premises, finds and orders as follows:

Legal Standard

Summary judgment shall be granted "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." 735 ILCS § 5/2-1005(c). In Illinois a summary judgment is encouraged as an aid to the expeditious disposition of a lawsuit. However, a movant may only be granted a summary judgment when all the pleadings, discovery materials, admissions, and permissible inferences, analyzed in the light most favorable to the nonmoving party, so clearly favor the movant that no fair-minded individual could dispute the movant's right to a judgment in his or her favor.

Summary judgment must be awarded with great caution in order to avoid preempting a litigant's right to trial by jury to fully present the factual basis of a case where a material dispute may exist, and it is considered a drastic remedy. Where reasonable people can draw different inferences from undisputed facts, summary judgment is inappropriate and should be denied. In determining whether there is a genuine issue of material fact, the trial court must construe the evidence strictly against the movant and liberally in favor of the opponent. *See Lamkin v. Towner*, 246 Ill.App.3d 201 (5th Dist. 1993); *Wilgus v. CyberSource Corp.*, 393 Ill.App.3d 1039 (5th Dist. 2009); and *Sullivan's Wholesale Drug Co., Inc. v. Faryl's Pharmacy, Inc.*, 214 Ill.App.3d 1073 (5th Dist. 1991).

Facts

The complaint alleges negligence on the part of the defendants arising from a motor vehicle accident that occurred on December 13, 2011. While acting within the scope of his employment with United States Steel, defendant Smith was operating an emergency vehicle and collided with the plaintiff.

It is undisputed that at the time Smith was a firefighter and Emergency Medical Technician (EMT) for United States Steel Emergency Services; that Smith was licensed by the Illinois Department of Public Health; that Smith was a firefighter certified by the Illinois State Fire Marshall's Office; that U.S. Steel Emergency Services was a certified Emergency Medical Services (EMS) agency by the Illinois Department of Public Health; and that at the time of the collision Smith was responding to a "man down" alarm with emergency lights and sirens activated.

Analysis

Defendants allege that they are immune from suit because Smith was a licensed EMT responding to a medical emergency at the time of the accident citing the Emergency Medical Services Systems Act, which provides in pertinent part:

Immunity from civil liability.

(a) Any person, agency or governmental body certified, licensed or authorized pursuant to this Act or rules thereunder, who in good faith provides emergency or non-emergency medical services during a Department approved training course, in the normal course of conducting their duties, or in an emergency, shall not be civilly liable as a result of their acts or omissions in providing such services unless such acts or omissions, including the bypassing of nearby hospitals or medical facilities in accordance with the protocols developed pursuant to this Act, constitute willful and wanton misconduct. 210 ILCS 50/3.150

Defendants also cite *Wilkins v. Williams*, 2013 IL 114310, which held that immunity under the Act is not limited to acts or omissions toward patients in ambulances, but it also applies to negligence toward third-parties, such as the plaintiff herein.

Plaintiff provided photocopies of photographs of the vehicle Smith was operating at the time of the collision as well as a copy of Smith's discovery deposition. Plaintiff's response to the motion centers around the nature of the vehicle Smith was driving, and in particular, that it is not a vehicle used for patient transport. No issue was taken with respect to whether Smith was a certified EMT acting within his scope of employment while responding to a man down alarm. The vehicle Smith was driving was a red Ford F-350 crew cab truck equipped with lights and sirens, and was referred to as a "fire vehicle." Smith acknowledged that it was not an ambulance, but a "firefighting" vehicle that carries "all our medical equipment" that he uses as

an EMT. Smith said the vehicle he utilized to respond to the “man down alarm” in this case is the vehicle he uses for his EMT duties; and in addition to the lights and sirens, it carries their medical and trauma equipment. Smith’s description and the photographs of the vehicle clearly depict it as an emergency response vehicle with bar lights on the top, sirens, firefighter markings, and so forth.

The legislative intent of the Act as spelled out in 210 ILCS 50/2 states that the Act “shall not be construed to regulate the emergency transportation of persons by friends or family members, in personal vehicles that are not ambulances, specialized emergency medical service vehicles, first response vehicles or medical carriers.” The Act intent is also said to concern “pre-hospital and inter-hospital emergency medical services, as well as non-emergency medical transports.”

It is clear that persons and entities with the proper certification enjoy civil immunity absent willful and wanton conduct and this is not limited to certain types of plaintiffs.

[S]ection 3.150(a) does not limit the statutory immunity set forth therein only to patients in the ambulance. Rather, the plain language of the statute clearly provides, in pertinent part, that “[a]ny person * * * who in good faith provides * * * non-emergency medical services * * * in the normal course of conducting their duties * * * *shall not be civilly liable as a result of their acts or omissions in providing such services* unless such acts or omissions * * * constitute willful and wanton misconduct.” (Emphasis added.) 210 ILCS 50/3.150(a) (West 2006). Section 3.150(a) does not limit, in any way, the types of plaintiffs to which the immunity applies. Nor does the language define or limit act or omission. Rather, the statute broadly declares that a person shall not be civilly liable as a result of their acts or omissions in providing nonemergency medical services. *Wilkins v. Williams*, 2013 IL 114310 at ¶20.

Here, there is no dispute that Smith was operating a first response vehicle with lights and sirens activated in the normal course of conducting his duties as an EMT when the accident with plaintiff occurred. The accident at issue occurred during an emergency medical service response to a “man down alarm” at United States Steel. Pursuant to the plain language of the statute, then, Smith and United States Steel cannot be civilly liable as a result of his act or omission in providing such emergency medical services unless that act or omission constitutes willful and wanton misconduct.

The fact that the vehicle in question was not an ambulance or was not ordinarily used for patient transport does not appear to aid the plaintiff in his defense of summary judgment inasmuch as the Act refers to a variety of emergency vehicles, including first response vehicles, and provides immunity for certified individuals

who, in the normal course of conducting their duties, or in an emergency, shall not be liable for their acts or omissions.

The fact that the "man down alarm" later turned out to be a false alarm also does not rescue plaintiff from summary judgment. The Act applies to both emergency and non-emergency EMT duties and Smith was indisputably unaware that it was a false alarm at the time of the collision.

For the foregoing reasons, the defendants' motion for summary judgment is hereby GRANTED.

IT IS SO ORDERED. *Clerk to send copies of this order to the parties of record.*

Dated: **OCT 29 2014**



William A. Mudge
Judge Presiding