

COA Opinion: Ordinary negligence standard applies to cheerleading coaches

18. March 2011 By Nicole Mazzocco

On March 17, 2011, the Michigan Court of Appeals published its opinion in *Sherry v. East Suburban Football League*, No. 295792. The plaintiff was injured during a non-publically sponsored cheerleading practice. She sued the associated football leagues and her coaches for negligence. The trial court held that a reckless misconduct standard applied to the plaintiff's claims and granted the defendants summary disposition on that basis. The Court of Appeals reversed, holding that the defendants could be held liable for ordinary negligence.

The Court of Appeals also considered several other items. First, the plaintiff challenged the trial court's refusal to consider an unnotarized affidavit submitted with the plaintiff's motion for reconsideration of the trial court's summary-disposition ruling. The Court of Appeals held that the trial court did not abuse its discretion in refusing to consider the affidavit because it was not notarized.

Second, the plaintiff claimed that the trial court erred in refusing to rule on the plaintiff's motion in limine to prevent the testimony of undisclosed witnesses at trial and in holding that the plaintiff had waived the right to claim relief from such discovery issues. The Court of Appeals agreed, noting that there was no evidence of waiver and directing the trial court to consider the motion in limine on remand.

Third, the plaintiff argued that the trial court should have granted the plaintiff summary disposition under MCR 2.116(1)(2). The Court of Appeals rejected this argument. The Court stated that there were genuine issues of material fact regarding whether the defendants' conduct was negligent.