

Summary of SC93702, *Cynthia DeCormier v. Harley-Davidson Motor Company Group Inc. and St. Louis Motorcycle Inc. d/b/a Gateway Harley-Davidson*

Appeal from the St. Louis County circuit court, Judge John D. Warner

Argued and submitted April 2, 2014; opinion issued November 12, 2014

Attorneys: DeCormier was represented by Matthew R. Davis and Timothy J. Gallagher of Heller, Gallagher & Finley LLP in St. Louis, (314) 725-1780; and the companies were represented by Terese A. Drew and Timothy M. Etzkorn of Hinshaw & Culbertson LLP in St. Louis, (314) 241-2600.

Three organizations filed briefs as friends of the Court. The Missouri Association of Trial Attorneys was represented by Leland F. Dempsey and Austin T. Bradley of Dempsey & Kingsland PC in Kansas City, (816) 421-6868. The Motorcycle Safety Foundation was represented by Theresa Shean Hall of Manz Swanson Hall Wilson Fogarty & Gellis PC in Kansas City, (816) 472-5310. The Missouri Organization of Defense Lawyers was represented by Jill R. Jackson and Michael P. Robertson of Ford, Parshall & Baker in Columbia, (573) 449-2613.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A woman appeals the grant of summary judgment (judgment on the court filings, without a trial) to two companies she sued for personal injuries she sustained while participating in an instructional course for new motorcycle riders. In a 5-2 decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the judgment. The woman failed to provide sufficient support for her allegations to demonstrate a genuine issue of fact existed as to whether the companies were reckless in causing her injury. Two judges dissent without opinion.

Facts: Cynthia DeCormier participated in an April 2008 instructional course for new motorcycle riders sponsored by Harley-Davidson Motor Company Group Inc. (Harley-Davidson) and conducted at Gateway Harley-Davidson (Gateway) in St. Louis by Gateway employees who were certified by the Motorcycle Safety Foundation, which supplied the course curriculum. Before participating, DeCormier signed a release waiving any claims in connection with the course, including those resulting from negligence. The day of the course, there was rain, drizzle, snow and mist, resulting in icy or slippery conditions. In performing exercises as part of the course, DeCormier's bike slipped and landed on her leg, injuring her. She filed a personal injury suit against Harley-Davidson and Gateway, alleging negligence and premises liability. The circuit court granted summary judgment to the two companies. DeCormier appeals.

AFFIRMED.

Court en banc holds: Harley-Davidson and Gateway are entitled to summary judgment because DeCormier failed to meet her burden to show they were reckless. A party is in reckless disregard of others if the party intentionally acts or fails to act while knowing or having reason to know facts from which a reasonable person would realize such conduct creates an unreasonably high

risk of substantial harm. To defeat a motion for summary judgment, Rule 74.04 (c) requires the non-moving party to demonstrate a genuine dispute of material facts for trial by supporting each factual allegation with specific references to discovery, exhibits or affidavits. As such, the rule requires a party to provide more evidentiary support than just citing to the bare allegations in the party's own pleading. DeCormier did not provide sufficient support to demonstrate a genuine issue as to whether Harley-Davidson and Gateway were reckless in causing her injury.