OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

LYNNETTA SCALES,	)	No. ED108785
	)	
Appellant,	)	
	)	
vs.	)	Appeal from the Circuit Court
	)	of St. Louis County
STACIE WHITAKER,	)	18SL-CC02321
	)	
Defendant,	)	
	)	
and	)	Honorable Kristine Allen Kerr
	)	
PLACES FOR PEOPLE, INCORPORATED,	)	
	)	
Respondent.	)	Filed: December 29, 2020

Lynnetta Scales ("Plaintiff") appeals the trial court's judgment dismissing her wrongful death claim against Places for People, Incorporated ("Defendant Places for People" or "Defendant") for failure to state a claim upon which relief can be granted.[1]

In relevant part, Plaintiff's second amended petition alleges the following. Plaintiff is the former spouse of Marco Scales ("Decedent"), who passed away on May 1, 2018. Defendant Places for People is a Missouri corporation providing programs, services, and resources for people living with mental illnesses and substance disorders, with its principal place of business located at 4130 Lindell Boulevard in the City of St. Louis. From 2013 through April 2018, Decedent was a customer and client of Defendant Places for People.

Plaintiff's second amended petition also alleges Defendant Places for People owed Decedent a duty of care to involuntarily commit him or otherwise keep him safe before and on the night of an April 13, 2018 accident in which Decedent was walking on Missouri Route D a/k/a Page Avenue in St. Louis County and was struck by a vehicle operated by defendant Stacie Whitaker. Near the time of the accident, Whitaker was allegedly engaging in potentially criminal and/or arguably reckless conduct by: driving at excessive speed in the rain; passing a vehicle in front of her as she accelerated; failing to use her turn signal while passing the vehicle in front of her; failing to keep a careful lookout; and driving her car while impaired and in an intoxicated condition.

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[1] Plaintiff filed wrongful death claims against underlying defendant Stacie Whitaker (Count I) and Defendant Places for People (Count II). The trial court subsequently entered a judgment dismissing Count II and Defendant Places for People with prejudice, certifying the judgment for appeal as to all claims against Defendant pursuant to Missouri Supreme Court Rule 74.01(b) (2020), and finding there was no just reason for delay of an appeal.

AFFIRMED.

Division One holds:

(1) The allegations in Plaintiff's second amended petition do not establish Defendant Places for People had a duty under section 632.300 RSMo 2016 to involuntarily commit Decedent.

(2) Defendant Places for People did not have a common law duty to Decedent to exercise due care to ensure Decedent's safety to avoid the allegedly foreseeable injuries to Decedent before and on the night of the April 2018 accident and his resulting death under the circumstances in this case.

(3) The allegations in Plaintiff's second amended petition do not establish Defendant assumed a duty by conduct to keep Decedent safe from injuries and death resulting from the pedestrian-vehicle accident in this case.

(4) Because the allegations in Plaintiff's second amended petition do not establish Defendant Places for People owed Decedent a duty of care under the circumstances of this case, the trial court did not err in dismissing Plaintiff's wrongful death claim against Defendant for failure to state a claim.

Opinion by: Robert M. Clayton III, J.
Colleen Dolan, P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: James P. Krupp, Ryan Krupp

Attorney for Respondent: Stephen M. Strum, Zachary S. Merkle, Timothy C. Sansone, Lawrence S. Hall, Katherine M. Smith

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.