

[Cite as *Stiles v. Ohio State Univ.*, 2005-Ohio-2950.]

IN THE COURT OF CLAIMS OF OHIO
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CARLA EDWINA STILES :

Plaintiff : CASE NO. 2003-11259

v. : Judge J. Craig Wright

THE OHIO STATE UNIVERSITY : DECISION

Defendant :

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{¶ 1} On April 4, 2005, defendant, Ohio State University (OSU), filed a motion for summary judgment pursuant to Civ.R. 56(C) as to plaintiff's remaining claims based on two assaults that allegedly occurred on June 24, 2001, and during April 2002.¹ On May 16, 2005, plaintiff filed a motion for leave to file a late response. Upon review, the motion is GRANTED. The case is now before the court for a non-oral hearing on defendant's motion for summary judgment. Civ.R. 56(C) and L.C.C.R. 4.

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} "*** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No

¹In an April 28, 2004, decision, this court concluded that "[t]he only claims remaining for trial are the claims against OSU based upon assaults that allegedly occurred on June 24, 2001, and in April 2003." In the latter instance, the year was incorrectly stated; the date that such incident allegedly occurred was April 2002.

evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. ***" See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} Plaintiff states in her complaint that at all times relevant herein she was an employee of OSU; that she was the victim of a physical assault by one of OSU's employees on March 19, 1999, during a team-building exercise which she describes as a sculpting session; and that she was the victim of two other assaults committed by OSU employees, one on June 24, 2001, and the other in April 2002.

{¶ 5} In support of the motion for summary judgment, defendant attached a copy of a settlement agreement executed by plaintiff in the Ashland County Court of Common Pleas, Case No. 03-CIV-082. This settlement agreement provides in relevant part, "plaintiff agrees to: *** not initiate any new claim or cause of action against defendant arising out of or relating to her employment."

{¶ 6} Plaintiff alleges in her memorandum in opposition to defendant's motion for summary judgment that the settlement agreement presented by defendant is not the same agreement she executed in the underlying case and that defendant is now attempting to defraud the court. However, plaintiff has not presented any evidence in support of those claims.

{¶ 7} The Tenth District Court of Appeals has stated:

{¶ 8} "The moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record that demonstrate the absence of a genuine issue of fact on a material element of one or more of the nonmoving party's claims for relief. *Dresher v. Burt* (1996), 75 Ohio St.3d 280, 292. If the moving party satisfies this initial burden by presenting or identifying appropriate Civ.R. 56(C) evidence, the nonmoving party must then present similarly appropriate evidence to rebut the motion with a showing that a genuine issue of material fact must be preserved for trial. *Norris v. Ohio Standard Oil Co.* (1982), 70 Ohio St.2d 1,2. The nonmoving party does not need to try the case at this juncture, but its burden is to produce more than a scintilla of evidence in support of its claims. *McBroom v. Columbia Gas of Ohio, Inc.* (June 28, 2001), Franklin App. No. 00AP-1110." *Nu-Trend Homes, Inc. et al. v. Law Offices of DeLibera, Lyons & Bibbo, et al.* (Mar. 31, 2003), Franklin App. No. 01AP-1137, 2003-Ohio-1633.

{¶ 9} In light of the standard of review, the court finds that the only reasonable conclusion to be drawn from the undisputed evidence set forth above is that plaintiff settled her claims against defendant and released defendant from any further liability thereon. Thus, there are no genuine issues of material fact and defendant is entitled to judgment as a matter of law. Defendant's motion for summary judgment shall be granted.

J. CRAIG WRIGHT
Judge

LP/AS/cmd
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