

STATE OF MICHIGAN
COURT OF APPEALS

GUY D. VALASICCA,

Plaintiff-Appellant,

v

OLYMPIA ENTERTAINMENT, INC.,

Defendant/Cross Plaintiff-Appellee,

and

X-MEN EXECUTIVE PROTECTION,

Defendant/Cross Defendant-
Appellee.

UNPUBLISHED

November 30, 2004

No. 249334

Wayne Circuit Court

LC No. 02-211860-NO

Before: Meter, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff attended a concert put on by defendant Olympia at Cobo Arena. Defendant X-Men contracted with Olympia to provide crowd management and security services. Plaintiff was injured by another patron during the concert and filed this action for damages. The trial court ruled that because police were on the premises, defendants had fulfilled any duty owed to plaintiff. The court dismissed the case. The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

"Owners and occupiers of land are in a special relationship with their invitees[.]" *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 499; 418 NW2d 381 (1988).

[G]enerally merchants "have a duty to use reasonable care to protect their invitees from the foreseeable criminal acts of third parties." The duty is triggered by specific acts occurring on the premises that pose a risk of imminent and foreseeable harm to an identifiable invitee. Whether an invitee is readily

identifiable as being foreseeably endangered is a question for the factfinder if reasonable minds could differ on this point. While a merchant is required to take reasonable measures in response to an ongoing situation that is taking place on the premises, there is no obligation to otherwise anticipate the criminal acts of third parties. Consistent with *Williams*, a merchant is not obligated to do anything more than reasonably expedite the involvement of the police. We also reaffirm that a merchant is not required to provide security guards or otherwise resort to self-help in order to deter or quell such occurrences. [*MacDonald v PKT, Inc*, 464 Mich 322, 338; 628 NW2d 33 (2001) (citations omitted).]

Assuming that Olympia, as the owner/occupant of Cobo Arena, owed plaintiff a duty in this instance, the evidence clearly showed that it had police officers present both inside and outside the venue. Therefore, it fully discharged its duty to respond and had no further obligation to plaintiff. *Id.* at 339-340.

Plaintiff argues that the mere presence of the police was not enough and that defendant had a further affirmative duty to track down the officers and direct them to quell the disturbance created by the concertgoers. However, according to *MacDonald*, it was sufficient that the defendant “had the police present at the concert[.]” *Id.* at 339. Plaintiff has not cited any case law or other authority in support of his contention that any further undertaking was required, and thus his argument is deemed abandoned. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

The trial court apparently assumed that both defendants owed the same duty to plaintiff and thus did not address the separate issue of the duty owed by X-Men, if any, by virtue of its contractual relationship with Olympia. Plaintiff has not addressed this issue on appeal, confining his argument solely to whether defendant breached its duty. Because plaintiff has failed to address an issue which must necessarily be reached to reverse the trial court, he is not entitled to relief. *Sargent v Browning-Ferris Indus*, 167 Mich App 29, 37; 421 NW2d 563 (1998). We note, however, that the evidence clearly shows that X-Men could not have been liable in this instance. Plaintiff was injured in an incident that occurred on December 15, 2001. Olympia had contracted for X-Men’s services in August 2001, but the contract, which plaintiff attached to his appellate brief, clearly states that it did not take effect until January 1, 2002.

Affirmed.

/s/ Patrick M. Meter
/s/ Kurtis T. Wilder
/s/ Bill Schuette