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STATE OF MICHIGAN

COURT OF APPEALS

ERIK SCOTT DOWNS and ERIKA TYLER, Individually and as Next Friend of EZSAIA HOPSON and EZYRIAH HOPSON,

Plaintiffs-Appellees,

and

RENAISSANCE CHIROPRACTIC, PC, CENTRIUM PHYSICAL THERAPY, PC, and CORE HEALING BODYWORKS, LLC,

Intervening Plaintiffs-Appellees,

v

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant-Appellant,

and

TASHAUN WOODLEY,

Defendant.

UNPUBLISHED
September 23, 2021

No. 352522
Genesee Circuit Court
LC No. 17-109960-CK

Before: CAVANAGH, P.J., and K. F. KELLY and REDFORD, JJ.

PER CURIAM.

Defendant[1] appeals by leave granted[2] orders granting in part and denying in part its motion for summary disposition of intervenors' claim for unjust enrichment arising from medical treatment provided by intervenors to plaintiffs for injuries allegedly sustained in a motor-vehicle accident. We reverse and remand.

I. FACTS AND PROCEDURAL BACKGROUND

Plaintiffs, Erika Tyler, Erik Downs, Ezsaia Hopson, and Ezyriah Hopson, were allegedly injured in a motor-vehicle accident when their vehicle was rear-ended by Tashaun Woodley. Tyler's vehicle was insured by defendant. As a result of their injuries, plaintiffs sought treatment from various medical providers, including intervenors, Renaissance Chiropractic, PC, Centrum Physical Therapy, PC, and Core Healing Bodyworks, LLC.

Plaintiffs filed their complaint against defendant seeking first-party no-fault benefits. The details of the litigation between plaintiffs and defendant are not particularly relevant, up to a certain point. In late April 2019, defendant moved to dismiss Tyler's claims for violation of a court order, obstructing depositions, and for inappropriate behavior. Defendant's motion detailed Tyler's behavior, including her use of various expletives during depositions, and her efforts to obstruct and cancel those depositions. Tyler responded, indicating defense counsel was demeaning and disrespectful, and indicated she had "blatantly obvious" psychiatric issues. Initially, the trial court denied defendant's motion to dismiss, but warned Tyler "to behave" and indicated she was "on thin ice." The order denying the motion also required Tyler to attend another deposition.

In early June 2019, however, defendant renewed its motion to dismiss. Reiterating Tyler's behavior outlined in its previous motion, defendant raised new issues that arose during Tyler's mid-May 2019 deposition. There, Tyler "assaulted" defense counsel by poking him in the forehead and spit in his face, threatened the court reporter, and disrespected the trial court. Tyler again reminded the trial court of her mental illness, and asserted dismissal would be inappropriate. The trial court disagreed and granted defendant's motion, dismissing Tyler's claims against defendant with prejudice. In the order granting defendant's motion to dismiss, the trial court handwrote: "It is further ordered that this dismissal does not prevent [the] rights of medical providers to intervene."

On July 1, 2019, Tyler assigned her rights to intervenors. The next day, intervenors moved to intervene. The trial court initially denied intervention. Intervenors moved for reconsideration asserting, in relevant part, that the trial court failed to consider and analyze intervenors' claims of breach of contract, account stated, and unjust enrichment. After a rehearing, the trial court granted, in part, intervenors' motion to intervene. Specifically, the trial court allowed intervenors to

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[1] Tashaun Woodley, the driver of the motor vehicle that struck plaintiffs' car, is also a defendant in this case. However, State Farm is the only relevant defendant for purposes of this appeal. As a result, we will refer to State Farm as defendant and, if necessary, to Tashaun Woodley as "Woodley."

[2] *Downs v State Farm Mut Auto Ins Co*, unpublished order of the Court of Appeals, entered May 6, 2020 (Docket No. 352522).

intervene with respect to their claims of account stated and unjust enrichment. The trial court denied intervention as it related to intervenors' statutory claim for personal-protection-insurance (PIP) benefits under the no-fault act, MCL 500.3101 *et seq.*, and breach of contract.

Intervenors filed their complaint, alleging two counts: account stated and unjust enrichment. Relevant here, intervenors' claim for unjust enrichment alleged that defendant was conferred a benefit in the form of services provided by intervenors to plaintiffs, failed to remit payment to intervenors, and would be unjustly enriched if not required to pay intervenors for the services provided.

In lieu of an answer, defendant moved for summary disposition. Defendant outlined four bases for summary disposition: (1) intervenors' exclusive remedy, if any, was with the no-fault act; (2) to the extent no-fault liability was pleaded, it was barred because intervenors' claims were either derivative of Tyler's claim, which the trial court had dismissed with prejudice, or barred by the one-year-back rule in MCL 500.3145; (3) intervenors' account-stated claim failed to state a claim because there was no contractual or implied contractual relationship between intervenors and defendant regarding the services provided to Downs and Tyler; and (4) intervenors' claim of unjust enrichment could not be sustained because there was no showing defendant unjustly obtained a benefit.

After intervenors responded, and without a hearing, the trial court entered an opinion and order granting summary disposition to defendant of the account-stated claim, but denying summary disposition of the claim for unjust enrichment, finding intervenors pleaded sufficient facts to support their unjust-enrichment claim. The trial court noted intervenors' allegations that defendant had "received and retained" at least $62,215 from intervenors and that the balance owed related to intervenors' "respective rehabilitation services provided to [d]efendant's insureds" (Tyler and Downs). The trial court also noted intervenors' allegations that they provided defendant certain services related to the "insureds' rehabilitation [and that] provided a uniquely helpful benefit to" defendant, which, according to intervenors, led them to be "inequitably out at least $62,215 and the value of the provision of the case-management services." The trial court found, "considering the allegations in the intervening complaint alone or [the] record as a whole in the light most favorable to" intervenors, reasonable minds could differ regarding whether defendant "received and retained a benefit from [intervenors] and inequity has resulted from such retention." The trial court found that summary disposition of intervenors' claim for unjust enrichment "pursuant to MCR 2.116(C)(7), (8), or (10)" was improper.

The trial court later entered an order supplementing its initial order. After summarizing defendant's arguments and the court's own findings in the initial order, the trial court found the unjust-enrichment claim did "not hinge upon the 'No-Fault Act' and, in turn, MCL 500.3145 (the 'one-year-back' rule)[,] since the claim is entirely equitable in nature." The trial court concluded the one-year-back rule did not apply and the "filing date of the intervening complaint (i.e., November 1, 2019) [was] not relevant here." The trial court found "the request for reimbursement for services provided by Intervening-Plaintiffs to Mr. Downs and Ms. Tyler before that date is not barred by the rule." This appeal followed.

II. UNJUST ENRICHMENT

Defendant argues that the trial court erred when it determined intervenors stated a cause of action for unjust enrichment to recover benefits for medical services intervenors allegedly provided to plaintiffs. We agree.

"This Court reviews de novo whether a trial court properly granted a motion for summary disposition." *Barnard Mfg Co, Inc v Gates Performance Engineering, Inc*, 285 Mich App 362, 369; 775 NW2d 618 (2009). The trial court stated that summary disposition was "improper as to the unjust-enrichment claim pursuant to MCR 2.116(C)(7), (8), or (10)." The trial court also explained its denial of summary disposition was made "considering the allegations in the complaint alone or [the] record as a whole . . . ." Because the trial court did not specify the rule under which it denied summary disposition, and mentioned that its decision was, at least potentially, made in consideration of the record "as a whole," we review the issues as having been decided under MCR 2.116(C)(10). See *Outdoor Sys Advertising, Inc v Korth*, 238 Mich App 664, 666 n 2; 607 NW2d 729 (1999). Regarding review of motions under MCR 2.116(C)(10), our Supreme Court in *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999), stated:

> A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. [*Id*. (citations and quotation marks omitted).]

"This Court has long recognized the equitable right of restitution when a person has been unjustly enriched at the expense of another." *Mich Ed Employees Mut Ins Co v Morris*, 460 Mich 180, 197; 596 NW2d 142 (1999). "[W]hether a claim for unjust enrichment can be maintained is a question of law . . . ." *Morris Pumps v Centerline Piping, Inc*, 273 Mich App 187, 193; 729 NW2d 898 (2006). "When unjust enrichment exists, the law operates to imply a contract in order to prevent it." *Keywell & Rosenfeld v Bithell*, 254 Mich App 300, 327-328; 657 NW2d 759 (2002) (quotation marks and citation omitted). A contract will be implied "only if there is no express contract covering the same subject matter." *Local Emergency Fin Assistance Loan Bd v Blackwell*, 299 Mich App 727, 734; 832 NW2d 401 (2013) (quotation marks and citation omitted).

Defendant argues that the trial court erred when it allowed intervenors' unjust-enrichment claim to proceed because there existed an express contract covering the same subject matter. We agree. Under its insurance contract with plaintiffs, defendant was required to pay for medical services provided as a result of injuries arising from a motor-vehicle accident. Thus, defendant's obligation to pay for medical services provided to plaintiffs for injuries from a motor-vehicle accident arose solely from an express contract. In other words, if there was no insurance contract between plaintiffs and defendant, defendant would have no obligation at all with regard to plaintiffs. As a result, the trial court erred in concluding there was not an express contract related to the same subject matter.

Defendant further argues that, even if there was no applicable express contract, intervenors failed to state a cause of action for unjust enrichment. We agree.

"The essential elements of [an unjust enrichment] claim are (1) receipt of a benefit by the defendant from the plaintiff, and (2) which benefit it is inequitable that the defendant retain." *Meisner Law Group PC v Weston Downs Condo Ass'n*, 321 Mich App 702, 721; 909 NW2d 890 (2017) (quotation marks and citation omitted; alteration in original). Intervenors failed to show defendant received a benefit from them. Intervenors treated plaintiffs for injuries sustained in the accident. Thus, plaintiffs were the parties that received a benefit—treatment of injuries—from intervenors, and not defendant. Intervenors claim defendant received a benefit by not paying for the services provided when Tyler's claims were dismissed with prejudice. But, as defendant notes, the failure to remit payment relates to services rendered to plaintiffs for injuries, as defined in MCL 500.3105, and thus, the benefit defendant allegedly retained were payments for services provided to the insureds. Therefore, intervenors' claim is one for no-fault benefits—regardless of how they labeled their claim. See *Stephens v Worden Ins Agency, LLC*, 307 Mich App 220, 228-229; 859 NW2d 723 (2014) (quotation marks and citation omitted) ("It is well established under Michigan jurisprudence that a court is not bound by the label a party assigns to its claims. Rather, we must consider the gravamen of the suit based on a reading of the complaint as a whole."). Such a claim is subject to the limitations of the no-fault act, not a claim for unjust enrichment. Additionally, it is well-settled that a medical provider has no independent statutory cause of action against a no-fault insurer for recovery of no-fault benefits. *Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co*, 500 Mich 191, 218-219; 895 NW2d 490 (2017).[3] Accordingly, the medical provider's default remedy is to seek payment directly from the injured person. *Id*. at 217. As a result, the trial court should have granted defendant's motion for summary disposition of intervenors' claim for unjust enrichment.

Defendant also argues that the trial court erred when it recognized a "free-standing claim of unjust enrichment, independent of Michigan's no-fault act," and that intervenors are attempting to sidestep the no-fault act. We agree.

Under MCL 500.3105(1), "an insurer is liable to pay benefits for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle . . . ." Under MCL 500.3107(1)(a), PIP benefits are payable for "[a]llowable expenses

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[3] The no-fault act was substantially revised when it was amended by 2019 PA 21, effective June 11, 2019. One of those revisions was to give medical providers a direct cause of action against no-fault insurers. See MCL 500.3112. Although intervenors' complaint, and the order challenged on appeal, were entered after the amendment of the no-fault act, this case began when plaintiffs filed their complaint in October 2017—before the amendment to the no-fault act. Moreover, intervenors' claims and bills stem from services that were provided approximately a year or more before the no-fault act was amended. Because the case began, and intervenors seek payment of bills for services rendered, before the amendment, the earlier version of the no-fault act controls in this case. See *Spectrum Health Hosp v Farm Bureau Mut Ins Co of Mich*, 333 Mich App 457, 465 n 4; 960 NW2d 186 (2020). Therefore, unless otherwise stated, references to the no-fault act are to the version in effect at the time this case was commenced.

consisting of reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery, or rehabilitation." Thus, the no-fault act fully occupies the relationship between insurers, their insureds, and the providers who deliver medical services to those insureds. As noted, it is well-settled that, under the version of the no-fault act applicable to this case, a medical provider has no independent statutory cause of action against a no-fault insurer for recovery of no-fault benefits. See *Covenant*, 500 Mich at 218-219.

Intervenors' claim for unjust enrichment seeks recovery of benefits that relate to care they provided plaintiffs after a motor-vehicle accident. Thus, as defendant notes, the damages intervenors seek are actually "requests for recovery by a medical provider for PIP benefits." In fact, in intervenors' complaint, they allege that plaintiffs "sustained bodily injuries within the meaning of MCL 500.3105." Therefore, we agree with defendant that intervenors "are seeking recovery of what undoubtedly constitute[] no-fault benefits (because the services provided fall within MCL 500.3105, and generally within the no-fault act)," and thus, intervenors' claim necessarily arises out of the no-fault act. Although intervenors label their claim as one for unjust enrichment, this Court must look beyond the labels assigned by the parties and, considering "the gravamen of the suit based on a reading of the complaint as a whole," we conclude intervenors' claim arises out of the no-fault act. See *Stephens*, 307 Mich App at 228-229. Accordingly, the trial court erred when it denied defendant's motion for summary disposition of intervenors' claim for unjust enrichment.[4]

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly
/s/ James Robert Redford

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[4] Given our conclusion that the trial court erred in recognizing a freestanding claim of unjust enrichment separate from, and independent of, the no-fault act, we need not address defendant's alternative arguments that intervenors' unjust enrichment claim is barred as derivative of Tyler's claims and is barred under the one-year back rule, MCL 500.3145.