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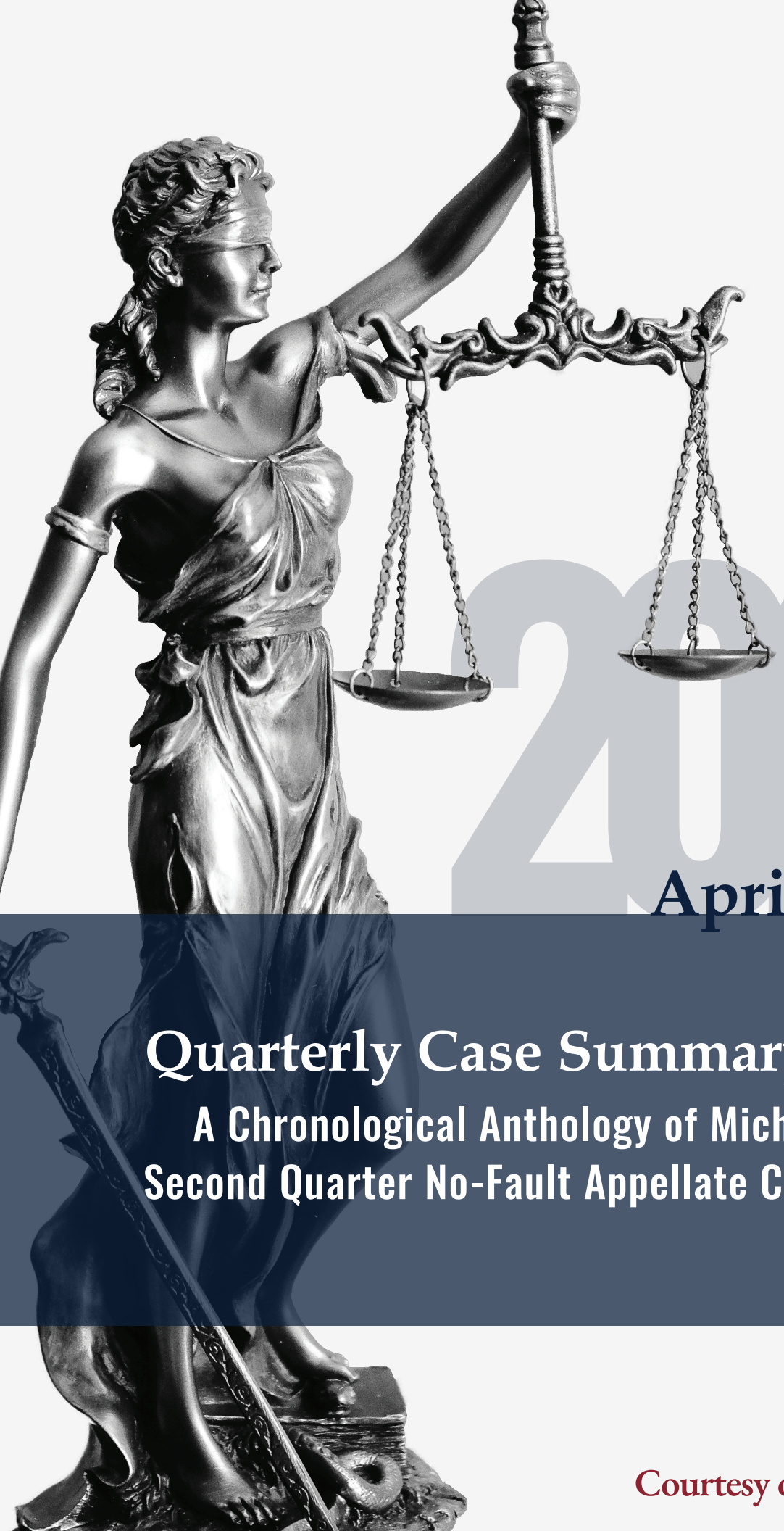

2022

April - June

Quarterly Case Summary Report:

A Chronological Anthology of Michigan's 2022 Second Quarter No-Fault Appellate Case Summaries

Courtesy of AutoNoFaultLaw.com

About AutoNoFaultLaw.com

AutoNoFaultLaw.com is an open-access academic resource provided by Sinas Dramis Law Firm to help further educate everyone about all that is going on in Michigan's Auto No-Fault Insurance Law.

Michigan's auto no-fault law is now more confusing and complicated than ever before due to the 2019 auto no-fault reforms. The system is no longer focused on providing people with lifetime auto medical expenses coverage. Many people injured in auto accidents will now have limited no-fault medical expense coverage or none at all; medical providers are now forced to accept drastically reduced payments for auto accident medical care; and the Michigan Department of Insurance and Financial Services (DIFS) has been given the power to work with insurance companies to regulate people's access to care.

The site and its contents are managed by the AutoNoFaultLaw.com Editorial Board, presently consisting of the following individuals from the Sinas Dramis Law Firm: Stephen Sinas, Joel Finnell, Katie Tucker, and Ted Larkin. The Board is assisted by the hard work and efforts of Sinas Dramis Law Firm clerk Haley Wehner.

AutoNoFaultLaw.com explores and critically analyzes this new and concerning frontier in Michigan's auto insurance law.

About This Quarterly Case Summary Report

AutoNoFaultLaw.com continues the commitment Sinas Dramis Law Firm has had for over 40 years to summarize all auto no-fault cases decided by Michigan Appellate Courts. These summaries can be found under "Case Summaries" on our site. We are publishing this quarterly report to allow people to easily understand and track the cases that have been decided in the second quarter (April through June) of 2022. The following provides an overview of the notable cases and developments this quarter.

Editor's Note Regarding the Second Quarterly Report of 2022

AutoNoFaultLaw.com continues the Sinas Dramis Law Firm's 40-year commitment to summarizing all auto no-fault cases decided by Michigan's appellate courts. These summaries can be found under the "Case Summaries" heading on the website, but we are publishing this quarterly report to allow people to easily understand and track the cases that have been decided most recently.

In the Supreme Court

The Michigan Supreme Court issued its opinion in *Mecosta Co Med Ctr v Metro Group Prop & Cas Ins Co* (RB #4434), affirming the judgment of the Court of Appeals and holding that if a medical provider receives an assignment of benefits from a patient *prior* to the patient initiating their own lawsuit against their no-fault insurer, the medical provider's legal rights cannot be affected by a subsequent judgment handed down in the patient's lawsuit. Plaintiff Mecosta County Medical Center ("Mecosta") obtained an assignment of benefits from an injured person, Jacob Myers, and after Mecosta obtained the assignment, Myers filed his own, personal lawsuit against his no-fault insurer, Metropolitan Group Property and Casualty Insurance Company ("Metropolitan"). Myers's lawsuit was eventually dismissed, after which Mecosta, based on the assignment it had obtained from Myers, filed a separate lawsuit against Metropolitan. Metropolitan moved for summary disposition, arguing that Mecosta's action was barred by res judicata and collateral estoppel because Mecosta was in privity with Myers, as his assignee, at the time Myers's suit was dismissed. The trial court agreed with Metropolitan, but the Court of Appeals reversed, and, ultimately, the Supreme Court affirmed the Court of Appeals' holding.

Explaining its holding, the Supreme Court acknowledged that, generally, assignees succeed only to the rights of their assignors and are therefore in privity with their assignors. However, the Court went on to clarify that the rights to which the assignee succeeds are the rights *in existence at the moment the assignment is executed*. In this case, Myers still had the right to pursue PIP benefits from Metropolitan at the time he assigned that right to Mecosta, and thus a subsequent judgment against Myers could not retroactively affect that right.

Six Published Opinions from the Michigan Court of Appeals

The Michigan Court of Appeals released six opinions for publication in the second quarter of 2022: *Anderson v Transdev Servs, Inc*, *Bellmore v Friendly Oil Change, Inc*, *Secura Ins Co v Stamp*, *Wasik v Auto Club Ins Assoc*, *Meemic Ins Co v Christian Care Ministry*, and *Hope Network Rehab Servs v Mich Catastrophic Claims Assoc*. The following provides of summary overview of these decisions.

Anderson v Transdev Servs, Inc

In *Anderson*, Plaintiff Marsha Anderson boarded a bus and was engaging the ticket feeder at the front when, according to her, the bus driver accelerated in an "unnecessarily violent or sudden manner," causing her to fall over and sustain injury. In her subsequent auto

negligence action against the company which owned the bus, Anderson acknowledged that longstanding Michigan case law makes clear that bus drivers need not wait to accelerate until all passengers are seated unless there is "a special and apparent reason to the contrary." However, Anderson argued that having to engage with a ticket feeder before finding a seat constitutes such a "special and apparent reason." The Court disagreed, reasoning that "ticket-related transactions on boarding a bus or streetcar are certainly commonplace and recognizing an exception to the general rule as proffered by plaintiff would swallow up the rule."

Anderson further argued that evidence of more than one person falling is sufficient—in and of itself—to create a question of fact as to whether a bus driver acted negligently by accelerating in an unnecessarily violent or sudden manner. Again, the Court declined to do so: "We cannot conclude that evidence that two people fell when the streetcar pulled forward created a genuine issue of material fact regarding whether the streetcar's acceleration was unnecessarily violent or sudden."

Bellmore v Friendly Oil Change, Inc

In *Bellmore*, Plaintiff Karen Bellmore was injured while getting her vehicle's oil changed. She and her friend went to Friendly Oil Change, Inc. ("Friendly")—the friend was driving Bellmore's vehicle—and after they pulled into the service bay, the Friendly technician inspecting under the vehicle's hood asked Bellmore to exit the vehicle and look at its air filter. As Bellmore walked around to the front of the vehicle, she slipped and fell into the service pit below, which her friend had not pulled forward far enough to cover entirely. Bellmore proceeded to file a claim for no-fault PIP benefits related to her injuries with State Farm Mutual Automobile Insurance Company, arguing that she was entitled to such benefits either because she was engaged in "maintenance" of her vehicle at the time of her fall for purposes of MCL 500.3105(1), or, alternatively, because her vehicle was parked in such a way so as to cause unreasonable risk of bodily injury for purposes of MCL 500.3106(1).

The Court of Appeals held that Bellmore was not entitled to PIP benefits as a result of the incident. As to MCL 500.3105(1), the Court held that the maintenance of the vehicle was not what caused Bellmore to fall into the service pit, but rather her "lack of attention to where she was walking." Put another way, the causal connection between her injuries and the maintenance of her vehicle was no more than incidental, fortuitous, or "but for." As to MCL 500.3106(1), the Court held that "[u]nder these circumstances . . . [Bellmore's] vehicle was not 'parked' for purposes of the no-fault act." The Court declined to explain how it reached this holding, considering that the car was in park, completely stationary,

and turned off at the time of the incident. The Court's conclusion that the vehicle was not "parked" at the time of the incident allowed the Court to bypass any analysis of whether it was "unreasonably parked" for purposes MCL 500.3106(1). This holding is notable because it does not appear to be consistent with previous decisions regarding the issue of parked vehicles.

Secura Ins Co v Stamp

In *Secura*, a dispute arose between the estates of two individuals killed in a motorcycle-versus-motor vehicle collision as to whose damages were greater and who, therefore, was entitled to a greater proportion of $500,000 in available underinsured motorist coverage. The trial court ruled that the amounts were to be split evenly between the two estates, $250,000 for one, $250,000 the other, because it did not want to 'hav[e] a jury trial where we are going to have heirs argue that [one decedent's] life was worth so much more than [the other's] . . . " In further support of its ruling, the trial court offered the following passage from *Moore v McDowell*, 54 Mich App 657 (1974):

> *"Equality is equity; in other words, if the fund is not sufficient to discharge all claims upon it in full, or if the debtor is insolvent, equity will incline to regard all the demands as standing upon equal footing, and will decree a pro rata distribution or payment."*

The Court of Appeals reversed the trial court, finding error in the trial court's reading of the maxim "equality is equity" to mean that, in all situations where separate claims exceed available funds, the funds must be divided equally. The Court explained that that the maxim "must be considered relative to the context in which it was used," and thus claimants should receive equal shares only if their claims are truly equal. In this case, since one estate contended that its damages were greater than the other estate's, it was up to the jury to apportion the total amount between the two parties.

Wasik v Auto Club Ins Assoc

In *Wasik*, Plaintiff Griffin Wasik sought uninsured motorist (UM) coverage from Progressive Marathon Insurance Company ("Progressive") and Auto Club Insurance Association ("Auto Club") after a minor accident in which both the driver of the vehicle Wasik was traveling in, and the driver of the vehicle which rear-ended them, pulled over, inspected both vehicles for damage, and, after agreeing there was none, drove off without exchanging information. The issue in the case was whether the rear-ending vehicle qualified as a 'hit-and-run vehicle' under the subject Auto Club and Progressive policies

such as would trigger UM coverage. Neither policy defined 'hit-and-run vehicle' apart from requiring that the driver be unknown or unidentifiable, so the Court of Appeals took that requirement, combined it with *Merriam-Webster's Collegiate Dictionary (11th ed.)*'s definition of 'hit-and-run' ('being or involving a motor-vehicle who does not stop after being involved in an accident'), and settled on the following definition for the term as it appeared in both policies: "a vehicle that hits another vehicle and the driver leaves the scene of that accident—either without stopping or at any time before an exchange of information can take place." Since the driver of the vehicle in which Wasik was traveling had an opportunity to exchange information with the driver of the rear-ending vehicle, the rear-ending vehicle did not qualify as a 'hit-and-run vehicle' under either policy.

Meemic Ins Co v Christian Care Ministry

In *Meemic*, Plaintiff Meemic Insurance Company ("Meemic") sought reimbursement from Christian Care Ministry, Inc. ("CCM")—a voluntary health care sharing ministry recognized under Michigan law—for no-fault PIP benefits it paid to Josephus Vanderlinden after Vanderlinden was injured in a car accident. Vanderlinden had purchased coordinated no-fault insurance from Meemic at some point prior to the accident, but he did not actually have "other health and accident coverage." The closest thing he had to "other health and accident coverage" was his participation in Medi-Share: a program administered by CCM that involves "matching its participants who have financial or medical needs with participants who have the ability to assist in meeting those needs[.]"

After paying approximately $685,000 in allowable expenses for Vanderlinden's accident-related medical treatment, Meemic discovered that Vanderlinden was a participant in Medi-Share, and proceeded to file a lawsuit against CCM, arguing that Medi-Share constituted "other health and accident coverage" and that CCM was primarily responsible for Vanderlinden's medical expenses given the coordination provision in his policy with Meemic. The Court of Appeals disagreed, holding that voluntary health care sharing ministries such as CCM do not provide "other health and accident coverage" for purposes of MCL 500.3109a. The Court noted that the Health Care Sharing Ministries Freedom to Share Act, MCL 550.1876, "expressly mandates that each participant in a health care sharing ministry 'who receives assistance from the ministry . . . remains personally responsible for the payment of all of his or her medical bills,' " which the Court described as the "antithesis of coverage, which by its very nature provides protection against personal financial responsibility." Furthermore, the Court noted that health care sharing ministries cannot be regarded "as something akin to self-insurance because no participant indemnifies himself or herself to satisfy medical expenses."

Hope Network Rehab Servs v Mich Catastrophic Claims Assoc

In *Hope*, the Court of Appeals held that the plaintiff healthcare provider, Hope Network Rehabilitation Services ("Hope"), could not proceed with its action for tortious interference with a business relationship or expectancy against the Michigan Catastrophic Claims Association (MCCA). Hope had been litigating a dispute with Farm Bureau General Insurance Company of Michigan ("Farm Bureau") over the reasonableness of its charges, but eventually, both parties agreed to settling the case for an unstated amount. Before finalizing the settlement, however, the MCCA conveyed to Farm Bureau that it did not approve of the settlement amount and would withhold reimbursement to Farm Bureau if Farm Bureau proceeded. Hope alleged that the MCCA's conduct gave rise to a claim against the MCCA for tortious interference with a business relationship or expectancy, but the Court of Appeals disagreed, holding that the specific facts of this case were not sufficient to support such a claim. Specifically, the Court held that the mere fact that the MCCA threatened to withhold reimbursement from Farm Bureau did not constitute 'inherently wrongful conduct,' a necessary element in any tortious interference claim, especially considering the MCCA's statutory authority 'to exercise appropriate control over settlements whenever the member reasonably anticipates that the claim will involve the MCCA,' (read into MCL 500.3104(2) by the Michigan Supreme Court in *United States Fidelity & Guaranty Co v Mich Catastrophic Claims Ass'n (On Rehearing)*, 484 Mich 1 (2009). Additionally, the Court of Appeals held that under the specific facts of this case, Hope did not suffer any damages as a result of the MCCA's alleged breach: its only damages were unpaid PIP benefits, which were unpaid solely because of the actions of Farm Bureau, not the MCCA.

It should be noted that while the Court of Appeals held that the specific facts of this case were not sufficient to support a tortious interference claim against the MCCA, its decision appears to confirm that such a claim could be brought against the MCCA, if the facts of the MCCA's alleged interference and resulting damages were different.

The Court of Appeals Again Finds that the 2019 Amendments to the No-Fault Act Do Not Apply Retroactively

For the second straight quarter, the Court of Appeals decided a case, *Cherry v Progressive Marathon Ins Co*, in which the parties disputed whether the 2019 amendments adding the "formal denial" tolling provision to the one-year-back rule contained in MCL 500.3145(3) applied retroactively. In *Cherry*, the Court of Appeals issued another unpublished decision, holding that that the tolling provision added to MCL 500.500.3145 does not

apply retroactively. Similar to its reasoning in its March 2022 unpublished decision in *Mobile MRI Staffing LLC v Meemic Ins Co,* the Court in *Cherry* reasoned that, absent a 'clear, direct, and unequivocal' intent for retroactive application in the text of an amended statute, itself, the statute is to be applied prospectively only.

It should also be noted that during this quarter, on June 7, 2022, the Court of Appeals held oral arguments in the "*Andary*" lawsuit, which addresses several important issues and arguments regarding whether the 2019 amendments implementing reduced medical reimbursement rates and limitations on family-provided attendant care can be applied to persons injured prior to the effective date of the amendments, i.e., June 19, 2019. The Court's decision in *Andary* has not been released at the time of this publication, but it is expected to be released soon.

A Notable Unpublished Opinion in a Dispute Between No-Fault Attorneys and a Medical Provider

The case of *VHS of Mich, Inc v Jones* featured a dispute between the attorneys of an individual, Jay Jones, who was injured in a motor vehicle accident, and one of Jones's accident-related medical providers, VHS of Michigan, Inc. ("VHS"). After the accident, Jones retained the Dailey Law Firm, PC ("Dailey") to assist him in applying for no-fault PIP benefits through the Michigan Assigned Claims Plan (MACP). His claim was assigned to Citizens Insurance Company of the Midwest ("Citizens"), who disputed the amount Jones was charged for two MRIs he underwent at VHS. Citizens agreed to pay $9,532.80 for the two MRIs, and issued a check for that amount, made payable to VHS and Dailey jointly.

A dispute then arose between VHS and Dailey as to how the $9,532.80 should be apportioned, with VHS refusing to accept less than the full amount and Dailey arguing that it was entitled to receive one-third of the bill to cover its one-third contingency attorney fee. With the parties at a stalemate, Dailey deposited the check into its Interest on Lawyers Trust Account (IOLTA), which prompted VHS to file a lawsuit against Dailey for conversion. The Court of Appeals held that that Dailey did commit conversion, by unilaterally acting on an instrument which identified more than one payee, even though Dailey only intended to keep the disputed portion of the funds. Furthermore, the Court relied upon the Supreme Court's holding in *Miller v Citizens Ins Co*, 490 Mich 905 (2011) in holding "[t]hat . . . a medical provider is not obligated to reduce its costs to contribute to an insured's attorney fees."

Other Noteworthy Unpublished Opinions

In *ISpine, PLLC v State Farm Mut Auto Ins Co*, the Court of Appeals held that an assignee medical provider could not be compelled to produce medical authorizations for its assignor patient's other providers. Kathereen Winton was injured in a car accident, after which she received treatment from ISpine, PLLC ("ISpine"). After assigning her right to pursue PIP benefits related to her treatment to ISpine, ISpine filed a claim with State Farm Mutual Automobile Insurance Company ("State Farm"). State Farm denied ISpine's claim, asserting that Winton's back injuries were not caused by the subject accident, and in ISpine's resultant first-party action against State Farm, State Farm requested that ISpine produce signed medical authorizations for Winton's other medical providers. State Farm argued that such items were required under MCR 2.302(A)(2)(b)-(3), and the trial court agreed. When ISpine failed to produce the authorizations after a period set by the trial court, the trial court dismissed its action entirely. The Court of Appeals reversed the trial court's ruling as to the authorizations, holding that an assignee such as ISpine cannot be required to produce signed authorizations for its assignor's other medical providers. The Court explained that MCR 2.302 (A)(2)(b) only requires that a party produce materials which are in its possession or control, and MCR 2.302(A)(3) only requires that " 'a party claiming damages' for personal injury' produce such authorizations. In this case, signed authorizations for Winton's other providers were never in ISpine's possession or control, nor was ISpine claiming damages for personal injuries. Thus, the trial court erred in ordering that ISpine produce signed authorizations for Winton's other providers.

In *Cousineau v Cousineau*, the Court of Appeals held that a specific patch of black ice was unsuspected and unforeseeable created a sudden emergency for his wife, the driver, — even though the plaintiff and his wife were driving on Michigan roads in January at the time of the subject crash. Janet Cousineau was driving in the middle of January when she encountered a patch of black ice, lost control of her vehicle, and crashed. Her passenger, Martin Cousineau, was injured in the crash and thereafter brought an auto negligence action against Janet, predicated on her failure to control her vehicle. Janet moved for summary disposition, arguing that the black ice constituted a sudden emergency because there was no prior evidence of ice on the roadway, and both the trial court and the Court of Appeals agreed. In affirming the trial court, the Court of Appeals rejected Martin's argument that black ice is so common during Michigan winters as to never be reasonably unsuspected. The uncontroverted evidence in the case established that the patch which caused Janet to lose control really was reasonably unsuspected.

In *Greiwe v Hamilton*, the Court of Appeals held that a young woman ejected from a vehicle and severely injured was ineligible for underinsured motorist (UIM) coverage because she did not recover the full amount of available liability insurance under the at-fault driver's policy, due to an apportionment of the available liability insurance between the plaintiff and two other injured passengers. The $500,000 in available liability insurance under the at-fault driver's policy was insufficient to cover the claims of each person injured in the crash, and thus Farm Bureau filed an interpleader action to have the total amount apportioned amongst all claimants. Plaintiff Alexus Greiwe received $280,000 in the apportionment, after which she sought UIM coverage under a resident relative's policy which provided for $500,000 in available UIM coverage. That policy defined 'underinsured motor vehicle' as, 'a motor vehicle which has bodily injury injury liability protection . . . in an amount . . . less than the limits of liability for Underinsured Motorists Coverage shown on the Declarations page.' Greiwe argued that even though the available liability insurance was equal to the available UIM coverage, she was eligible for coverage under the policy, because the available liability insurance was apportioned due to the number of claimants. The Court of Appeals disagreed, holding that under the plain language of the policy, she was ineligible for coverage.

A Statistical Breakdown of the Court of Appeals' Decisions in Quarter One

The Court of Appeals issued opinions in 43 cases in the second quarter of 2022. Those cases are broken down categorically, below:

1. 23 cases featured disputes over no-fault PIP benefits. Of those 23 cases:
    a. four featured attempted cancellations or rescissions of no-fault insurance policies;

        Johnson v Geico Indemnity Co

        Cheema v Progressive Marathon Ins Co

        Kodra v American Select Ins Co

        Bronson Health Care Group, Inc v Falls Lake Nat'l Ins Co

    b. three featured disputes over motor vehicle involvement;

        Jones v Anderson

        Flesher v Progressive Marathon Ins Co

        Kaur v Citizens Ins Co of the Midwest

c. two featured disputes over injury causation for purposes of PIP benefit entitlement;

Mehtar v Fremont Ins Co

Pellegrino v State Farm Mut Auto Ins Co

d. one featured a claim for PPI benefits;

Pete's Auto and Truck Parts, Inc v Greg Hibbitts Transp Co

e. one featured a dispute over the sufficiency of a claimant's notice of injury under MCL 500.3145;

Orchard Laboratories Corp v Auto Club Ins Assoc

f. one featured an attempt to invoke the doctrines of res judicata and collateral estoppel to bar a provider from bringing its own action pursuant to an assignment, after the provider's patient's separate first-party action was dismissed;

Orchard Laboratories Corp v Auto Club Ins Assoc

g. one featured a dispute as to ownership of a motor vehicle;

Cheema v Progressive Marathon Ins Co

h. one featured a dispute as to the reasonableness of charges;

Bronson Health Care Group, Inc v Falls Lake Nat'l Ins Co

i. one featured a dispute as to whether charges were "incurred";

5 Star Comfort Care, LLC v Geico Indemnity Co

j. one featured a dispute regarding claimant's domicile;

Kaur v Citizens Ins Co of the Midwest

k. one featured a claim for no-fault attorney fees;

Bronson Health Care Group, Inc v Falls Lake Nat'l Ins Co

l. one featured a dispute over the retroactivity of the 2019 amendments to the no-fault act, and to MCL 500.3145, specifically;

Cherry v Progressive Marathon Ins Co

m. one featured a defense based on the "payments made in good faith" language in MCL 500.3112;

New Horizon Chiropractic PLLC v State Farm Mut Auto Ins Co

n. one featured a dispute over an award of costs and fees;

Williams v State Farm Mut Auto Ins Co

o. one featured a dispute over a parked vehicle exception;

Bellmore v Friendly Oil Change, Inc

p. one featured a dispute as to whether a claimant's injuries arose out of maintenance of a motor vehicle such that she would be entitled to PIP benefits;

Bellmore v Friendly Oil Change, Inc

q. one featured an issue related to discovery sanctions in first-party cases;

ISpine, PLLC v State Farm Mut Auto Ins Co

r. one featured an allegation of fraud;

Johnson v Geico Indemnity Co

s. one featured a claim for PIP benefits by an out-of-state resident;

Carter v Owners Ins Co

t. one featured an issue related to attorney fee liens and a dispute as to the propriety of a claimant's attorney depositing a check—which was made out to the attorney and the medical provider and tendered to satisfy the claimant's outstanding balance with the provider—into the attorney's IOLTA account

VHS of Mich, Inc v Jones

u. one featured an issue related to a coordination provision in a no-fault policy;

Meemic Ins Co v Christian Care Ministry, Inc

v. one featured a claim of tortious interference with a business relationship or expectancy against the MCCA

Hope Network Rehab Servs v Mich Catastrophic Claims Assoc

2. 16 cases featured miscellaneous third-party auto negligence and/or uninsured or underinsured motorist disputes. Of those 16 cases:

    a. eight dealt with the tort threshold for serious impairment of body function;

        Quint v Tibbitts

        Smith v Auto Club Ins Assoc

        Harris v Pawlitz

        Kidd v Liberty Mut Gen Ins Co

        Jones v Smith

        Zeliasko v Al-Dorough

        Mitchner v Progressive Mich Ins Co

        Barash v Kolar

    b. six featured disputes regarding injury causation;

        Yarber v Home-Owners Ins Co

        Smith v Auto Club Ins Assoc

        Harris v Pawlitz

        Kidd v Liberty Mut Gen Ins Co

        Mitchner v Progressive Mich Ins Co

        Barash v Kolar

    c. three featured invocations of the sudden emergency doctrine;

        Hill v Nationwide Mut Fire Ins Co

        Cousineau v Cousineau

        Deda v Winters

    d. one featured a tort claim for property damage which arose out of the se of a motor vehicle as a motor vehicle;

        Pete's Auto and Truck Parts, Inc v Greg Hibbitts Transp Co

e. one featured a dispute over comparative fault;

Hill v Nationwide Mut Fire Ins Co

f. one featured a claim of negligence against a bus driver by an injured passenger;

Anderson v Transdev Services, Inc

g. one featured an allegation of negligent entrustment;

Quint v Tibbitts

h. one featured a claim of permanent serious disfigurement;

Quint v Tibbitts

i. one featured an issue related to the "common fund doctrine";

Secura Ins Co v Stamp

j. one featured a dispute over ownership;

Alhariri v Rogers

3. Three cases featured claims for uninsured or underinsured motorist coverage:

Wasik v Auto Club Ins Assoc

Secura Ins Co v Stamp

Greiwe v Hamilton

4. One case featured a claim for reimbursement by one no-fault insurer against another:

Nationwide Mut Fire Ins Co v Cincinnati Ins Co

5. One case featured an issue related to car dealer license plates and liability:

Bazzo v Doe

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Quint, et al v Tibbits, et al (COA – UNP 4/7/2022; RB #4399)

Michigan Court of Appeals; Docket #357138; Unpublished
Judges Gadola, Borrello, and Kelly; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
Determining Permanent Serious Disfigurement as a Matter of Law [§3135(1)(2)]

TOPICAL INDEXING:
Negligent Entrustment

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendants Thomas Makuch and the Estate of Martin Jay Tibbitts's motion for summary disposition, in which they sought dismissal of Plaintiff Eric Steven Quint's third-party automobile negligence action against them. The Court of Appeals held: (1) that Quint failed to satisfy the third prong of the test for serious impairment of body function set forth in *McCormick v Carrier*, 487 Mich 180—that his injuries affected his general ability to lead his normal life; (2) that Quint failed to present sufficient evidence to create a question of fact as to whether he suffered any lacerations or abrasions in the subject car crash which constituted permanent serious disfigurements; and (3) that there was no evidence Makuch was an incompetent driver—or, if Makuch was an incompetent driver, that Tibbitts knew he was an incompetent driver—and thus no basis for Quint's claim against Tibbitts for negligent entrustment.

Read Full Summary

ISpine, PLLC v State Farm Mut Auto Ins Co (COA – UNP 4/14/2022; RB #4400)

Michigan Court of Appeals; Docket #356720; Unpublished
Judges Gleicher, Kelly, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Discovery Sanctions in First-Party Cases

In this unanimous, unpublished, *per curiam* decision, the Court of Appeals reversed the trial court's dismissal of Plaintiff ISpine, PLLC's ("ISpine") first-party action against Defendant State Farm Mutual Automobile Insurance Company ("State Farm") as a discovery sanction. The Court of Appeals held that a trial court cannot compel a provider—e.g., ISpine—to produce its patient's medical authorizations in a first-party action brought by the provider pursuant to an assignment. Furthermore, the Court of Appeals held that the trial court failed to balance the factors set forth in *Vicencio v Ramirez*, 211 Mich App 501 (1995) for determining whether dismissal is an appropriate sanction for a discovery violation.

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Kaur v Citizens Ins Co of the Midwest, et al (COA – UNP 4/21/2022; RB #4402)

Michigan Court of Appeals; Docket #355683; Unpublished
Judges Borrello, Markey, and Servitto; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Entitlement to PIP Benefits: Motor Vehicle Involvement [§3105(1)]
Determination of Domicile [§3114(1)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed three separate orders of the trial court: that which granted Plaintiff Harbans Kaur's motion for summary disposition on the issue of whether her injuries arose out of the use of a motor vehicle as a motor vehicle for purposes of MCL 500.3105; that which granted Defendant Meemic Insurance Company's ("Meemic") motion for summary disposition on the issue of Kaur's domicile at the time of the subject incident; and that which denied Defendant Citizens Insurance Company of the Midwest's ("Citizens") motion to compel supplementation of discovery and, specifically, to depose Kaur a second time and have her undergo another insurance medical examination (IME).

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Smith v Auto Club Ins Assoc, et al (COA – UNP 4/21/2022; RB #4404)

Michigan Court of Appeals; Docket #357641; Unpublished
Judges Borrello, Markey, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
Causation Issues [§3135]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's summary disposition order dismissing Plaintiff Linda Smith's automobile negligence action against Defendants Robert Nesbitt and Michael Koenigknecht. The Court of Appeals held that the trial court erred in concluding that Smith failed to present sufficient evidence to create a question of fact as to whether the subject car crash caused her to suffer an objectively manifested impairment under MCL 500.3135(5)(a).

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Yarber, et al v Home-Owners Ins Co, et al (COA – UNP 4/21/2022; RB #4303)

Michigan Court of Appeals; Docket #357197; Unpublished
Judges Jansen, Sawyer, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Causation Issues [§3135]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Christopher Yarber's action for uninsured motorist (UM) benefits against Defendant Home-Owners Insurance Company ("Home-Owners"). The Court of Appeals held that Yarber failed to establish that his injuries were caused by the subject car crash.

Read Full Summary

Jones, et al v Anderson, et al (COA – UNP 5/12/2022; RB #4410)

Michigan Court of Appeals; Docket #356577; Unpublished
Judges Letica, Markey, and O'Brien; *Per Curiam*
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Determination of Involved Vehicle [§3115(1)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order in favor of Defendant Nationwide Mutual Fire Insurance Company ("Nationwide"), in Nationwide's dispute with Defendant Geico General Insurance Company ("Geico") over who was higher in priority for payment of Plaintiff Ashley Jones's no-fault PIP benefits. The Court of Appeals held that Nationwide was the highest priority insurer under the pre-amendment version of MCL 500.3115(1) because the vehicle Geico insured was not "involved" in the subject motor vehicle-versus-pedestrian collision for purposes of the statute.

Read Full Summary

Johnson v Geico Indemnity Co (COA – UNP 5/12/2022; RB #4407)

Michigan Court of Appeals; Docket #351838; Unpublished
Judges Jansen, Murray, and Cameron; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion; Link to Concurrence

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Cancellation and Rescission of Insurance Policies
Fraud/Misrepresentation

In this unanimous, unpublished, per curiam decision (Murray, concurring), the Court of Appeals— on remand from the Supreme Court—vacated the trial court's denial of Defendant Geico Indemnity Company's ("Geico") motion for summary disposition, in which Geico sought dismissal of Plaintiff Kimberly Johnson's first-party action against it on the basis of fraud. The Court of Appeals originally reversed the trial court's denial of Geico's motion—and remanded to the trial court for entry of an order granting summary disposition in Geico's favor—based on Bahri v IDS Prop Cas Ins Co, 308 Mich App 420 (2014). Johnson then sought leave to appeal to the Supreme Court, which vacated the Court of Appeals' reversal and remanded for reconsideration under Meemic Ins Co v Fortson, 506 Mich 287 (2020).

Read Full Summary

Bellmore v Friendly Oil Change, Inc., et al (COA – PUB 5/12/2022; RB #4406)

Michigan Court of Appeals; Docket #357660; Published
Judges Jansen, Cavanagh, and Riordan; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion

STATUTORY INDEXING:
Entitlement to PIP Benefits: Maintenance of a Motor Vehicle [$3105(1)]
Exception for Unreasonably Parked Vehicles [$3106(1)(a)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, published decision authored by Judge Cavanagh, the Court of Appeals reversed the trial court's summary disposition order in favor of Plaintiff Karen Louise Bellmore, in Bellmore's first-party action against Defendant State Farm Mutual Automobile Insurance Company ("State Farm"), and remanded for entry of an order granting summary disposition in State Farm's favor. The Court of Appeals held, first, that Bellmore's injuries—which she sustained when she accidentally fell into the service pit beneath her vehicle while getting an oil change—did not arise out of the maintenance of her motor vehicle for purposes of MCL 500.3105(1). The Court of Appeals held, second, that Bellmore's vehicle was not "parked" for purposes of MCL 500.3106(1) at the moment Bellmore fell into the service pit.

Read Full Summary

Carter v Owners Ins Co (COA – UNP 5/12/2022; RB #4409)

Michigan Court of Appeals; Docket #356556; Unpublished
Judges Letica, Markey, and O'Brien; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Obligations of Admitted Insurers to Pay PIP Benefits on Behalf of Nonresidents Injured in Michigan [§3163(1)]

TOPICAL INDEXING:
Equitable Estoppel
Mend the Hold

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant Auto-Owners Insurance Company's ("Auto-Owners") motion for summary disposition—in which Auto-Owners sought dismissal of Plaintiff Christopher Carter's first-party action against it—and remanded to the trial court for entry of an order granting summary disposition in Auto-Owners' favor. The Court of Appeals held, first, that Carter, an Ohio resident at the time of the subject motor vehicle collision, was not entitled to no-fault PIP benefits for the injuries he sustained in the collision under the version of MCL 500.3163(1) in effect prior to the 2019 amendments to the No-Fault Act. The Court of Appeals held, second, that the "mend the hold" doctrine did not apply in this case to estop Auto-Owners from raising MCL 500.3163(1) as a defense after it had previously given an alternative, contradictory basis for denying Carter's claim for PIP benefits.

Read Full Summary

Anderson v Transdev Services, Inc, et al (COA – Pub 5/12/2022; RB #4405)

Michigan Court of Appeals; Docket #357641; Published
Judges Letica, Markey, and O'Brien; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Evidentiary Issues
Motor Vehicle Exception to Governmental Tort Liability Act
Negligence – Duty

In this unanimous, published decision authored by Judge Markey, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Marsha Anderson's third-party negligence action against Defendants Transdev Services, Inc. and MI Rail (collectively, "the defendants"). The Court of Appeals held, first, that bus drivers are not required to wait until an onboarding passenger complete a ticket-related transactions at the front of the bus before accelerating from a stop. The Court of Appeals held, second, that evidence that Anderson and her friend fell after the defendants' bus driver accelerated, in and of itself, was not sufficient to create a question of fact as to whether the driver acted negligently by accelerating in an unnecessarily violent and sudden manner.

Read Full Summary

VHS of Michigan, Inc v Jones, et al (COA – UNP 5/12/2022; RB #4408)

Michigan Court of Appeals; Docket #355953; Unpublished
Judges Jansen, Cavanagh, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Attorney Fee Liens

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order in favor of Plaintiff VHS of Michigan, Inc. ("VHS"), in VHS's action against Defendant Dailey Law Firm, PC ("Dailey") for conversion. The Court of Appeals held, first, that Dailey committed a conversion when he deposited a check—issued by Citizens Insurance Company of the Midwest ("Citizens"), the no-fault insurer highest in priority for payment of Dailey's client's claim for no-fault PIP benefits, and made payable to both Dailey and VHS—into his Interest on Lawyers Trust Account (IOLTA) while he negotiated with VHS about whether he could retain any portion of the check to cover his attorney fee for recovering payment in the first place. The Court of Appeals held, second, that Dailey could not assert an attorney's charging lien over payment received from Citizens for medical services VHS rendered to Dailey's client.

Read Full Summary

Flesher v Progressive Marathon Ins Co, et al (COA – UNP 5/19/2022; RB #4413)

Michigan Court of Appeals; Docket #357382; Unpublished
Judges Letica, Markey, and O'Brien; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Determination of Involved Vehicle [§3114]

TOPICAL INDEXING:
Evidentiary Issues

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's summary disposition order dismissing Plaintiff Kenneth Flesher's first-party action against Defendant MemberSelect Insurance Company ("AC-MS"). The Court of Appeals held that Flesher presented sufficient evidence to create a question of fact as to whether a GMC Yukon owned by AC-MS's insured was involved in a hit-and-run collision with Flesher's motorcycle.

Read Full Summary

Secura Ins Co v Stamp, et al (COA – PUB 5/19/2022; RB #4410)

Michigan Court of Appeals; Docket #357395; Published
Judges Borrello, Shapiro, and Hood; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Common Fund Doctrine

In this unanimous, published decision authored by Judge Shapiro, the Court of Appeals reversed the trial court's decision to split $500,000 in total, available uninsured motorist (UM) coverage equally between the estates of two individuals who died in a motorcycle-versus-motor vehicle crash, and remanded to the trial court for a pro rata distribution of that amount after each estate's respective damages were determined by a jury. The Court of Appeals held that a common fund should only be split equally if all claims are equal, and that in this case, since one estate argued that its damages were greater than the others, the jury should determine the appropriate apportionment of the $500,000.

Read Full Summary

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5 Star Comfort Care, LLC v Geico Indemnito Co (COA – UNP 5/19/2022; RB #4411)

Michigan Court of Appeals; Docket #356786; Unpublished
Judges Murray, Sawyer, and Kelly; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Allowable Expenses: Incurred Expense Requirement [§3107(1)(a)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff 5 Star Comfort Care, LLC's (5 Star) first-party action against Defendant Geico Indemnity Company ("Geico"). The Court of Appeals held that 5 Star's patient/Geico's insured, Shakeim Higgins, did not "incur" the balance between the $10 rate 5 Star paid Higgins's girlfriend for the attendant care she provided to Higgins, and the $39.99 rate 5 Star billed to Geico for that same care.

Read Full Summary

Orchard Laboratories Corp v Auto Club Ins Assoc (COA – UNP 5/26/2022; RB #4417)

Michigan Court of Appeals; Docket #356597; Unpublished
Judges Gleicher, Kelly, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion; Link to Dissent

STATUTORY INDEXING:
Required Content of Notice / Sufficiency of Notice [§3145(1)]

TOPICAL INDEXING:
Not Applicable

In this 2-1, unpublished, per curiam decision (Kelly, dissenting), the Court of Appeals affirmed two separate trial court orders denying two separate motions for summary disposition filed by Defendant Auto Club Insurance Association ("Auto Club") in Plaintiff Orchard Laboratories Corporation ("Orchard Laboratories") first-party action against Auto Club. The Court of Appeals held, first, that Auto Club received sufficient notice of Robert Dorey's back injuries within one year of the subject pedestrian-versus-motor vehicle collision for purposes of MCL 500.3145(1). The Court held, second, that res judicata and collateral estoppel did not apply to Orchard Laboratories' first-party action against Auto Club, even though Dorey's separate first-party action against Auto Club was dismissed while Orchard Laboratories' was pending, because Orchard Laboratories was not a party to Dorey's action and because Orchard Laboratories and Dorey were not in privity.

Read Full Summary

Hill v Nationwide Mut Fire Ins Co, et al (COA – UNP 5/26/2022; RB #4416)

Michigan Court of Appeals; Docket #355602; Unpublished
Judges Borrello, Shapiro, and Hood; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Applicability of Comparative Fault to Noneconomic Loss Claims [§3135(2)]

TOPICAL INDEXING:
Sudden Emergency Doctrine

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant William Richard Crisman's motion for summary disposition—in which Crisman sought dismissal of Plaintiff Montez Hill's third-party auto negligence action against him—and remanded for entry of an order granting Crisman's motion. The Court of Appeals held that no reasonable juror could conclude that Hill was less than 50% at fault for the subject motor vehicle collision and, alternatively, that any negligence acts committed by Crisman were excused by the sudden-emergency doctrine.

Read Full Summary

Cousineau v Cousineau, et al (COA – UNP 5/26/2022; RB #4418)

Michigan Court of Appeals; Docket #356952; Unpublished
Judges Letica, Redford, and Rick; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Sudden Emergency Doctrine

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Martin Cousineau's third-party auto negligence action against Defendant Janet Cousineau. The Court of Appeals held that Janet Cousineau was shielded from liability by the sudden-emergency doctrine because, under the specific facts and circumstances of this case, it was not reasonably foreseeable that she would encounter a patch of black ice which would cause her to lose control of her vehicle.

Read Full Summary

Harris v Pawlitz, et al (COA – UNP 5/26/2022; RB #4419)

Michigan Court of Appeals; Docket #357097; Unpublished
Judges Borrello, Shapiro, and Hood; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
Causation Issues [§3135]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals vacated the trial court's summary disposition order—in which the trial court dismissed Plaintiff Shelisa Harris's third-party auto negligence action against Defendant Edwin Edward Pawlitz—and remanded to the trial court for further proceedings consistent with its opinion. The Court of Appeals held that a question of fact existed as to whether Harris's injuries satisfied the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich 180 (2010)—specifically, whether Harris suffered an objectively manifested impairment, caused by the subject motor vehicle collision, which affected her general ability to lead her normal life.

Read Full Summary

Alhariri v Rogers, et al (COA – UNP 5/26/2022; RB #4420)

Michigan Court of Appeals; Docket #357169; Unpublished
Judges Swartzle, Cameron, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Motor Vehicle Code (Civil Liability of Owner) (MCL 257.401)

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Zakariya Alhariri's third-party auto negligence action against Defendant University Auto Repair, Inc. ("UAR"), which Alhariri brought pursuant to Michigan owner's liability statute, MCL 257.401. The Court of Appeals held that UAR was not the owner of the motor vehicle in question because legal title had been transferred upon the signing of the application for title five days prior to the subject crash.

Read Full Summary

Wasik v Auto Club Ins Assoc, et al (COA – PUB 6/2/2022; RB #4421)

Michigan Court of Appeals; Docket #355848; Published
Judges Rick, Murray, and Shapiro; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Interpretation of Insurance Contracts
Uninsured Motorist Coverage in General

In this unanimous, published decision authored by Judge Murray, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Griffin Wasik's action for uninsured motorist (UM) benefits against Defendants Auto Club Insurance Association ("Auto Club") and Progressive Marathon Insurance Company ("Progressive"). The Court of Appeals held that the phrase 'hit-and-run vehicle'—found in both policies—did not include a Ford Explorer whose driver initially stopped after crashing into the vehicle Wasik was traveling in, but then left the scene after the drivers of each vehicle agreed that there was no need to contact the police. In so holding, the Court of Appeals defined the term 'hit-and-run vehicle' in both policies to mean "a vehicle that hits another vehicle and the driver leaves the scene of the accident—either without stopping or at any time before an exchange of information can take place."

Read Full Summary

Cheema, et al v Progressive Marathon Ins Co, et al (COA – UNP 6/2/2022; RB #4422)

Michigan Court of Appeals; Docket #355910; Unpublished
Judges Jansen, Cameron, and Rick; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion; Link to Dissent

STATUTORY INDEXING:
Definition of Owner [§3101(2)(h)]

TOPICAL INDEXING:
Cancellation and Rescission of Insurance Policies
Injunctive and Equitable Relief in PIP Cases

In this unanimous, unpublished, per curiam decision (Cameron, concurring in part and dissenting in part), the Court of Appeals vacated the trial court's summary disposition order dismissing Plaintiff Harris Cheema's first-party action against Defendants Progressive Marathon Insurance Company ("Progressive") and State Farm Mutual Automobile Insurance Company ("State Farm"). The Court of Appeals held, first, that a question of fact existed as to whether Progressive could rescind the policy it issued to Cheema's company, Overland Transportation, LLC ("Overland"), based on misrepresentation Cheema made on his application for coverage regarding the nature of Overland's business. The Court of Appeals held, second, that a question of fact existed as to whether a mutual rescission of the Progressive policy occurred by virtue of the fact that Cheema used the refunded premiums to pay Overland's business expenses. The Court of Appeals held, third, that under the circumstances in this case, Progressive was not barred by the election of remedies doctrine from rescinding the policy after first choosing to cancel it. The Court of Appeals held, fourth, that a question of fact existed as to whether Cheema and Overland were co-owners of the vehicle Cheema was driving at the time of his injury, such that—if Progressive properly rescinded the policy it issued to Overland which covered the vehicle—Cheema would have been required to personally maintain no-fault coverage on the vehicle under MCL 500.3101(3)(l).

Read Full Summary

Mehtar v Fremont Ins Co, et al (COA – UNP 6/2/2022; RB #4423)

Michigan Court of Appeals; Docket #355910; Unpublished
Judges Borrello, Shapiro, and Hood; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Entitlement to No-Fault PIP Benefits: Bodily Injury Requirement [§3105(1)]
Entitlement to PIP Benefits: Arising Out of / Causation Requirement [§3105(1)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's summary disposition order in favor of Plaintiff Bashir Mehtar, in Mehtar's first-party action seeking unpaid no-fault PIP benefits from Defendant Fremont Insurance Company ("Fremont"), and remanded for further proceedings consistent with its opinion. The Court of Appeals held that a question of fact existed as to the "existence and extent" of the injuries Mehtar allegedly suffered as a result of the subject car crash and, further, that a question of fact existed as to whether Mehtar's injuries arose out of the subject car crash for purposes of MCL 500.3105(1).

Read Full Summary

Kidd v Liberty Mut Gen Ins Co, et al (COA – UNP 6/2/2022; RB #4425)

Michigan Court of Appeals; Docket #357587; Unpublished
Judges Swartzle, Cameron, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – present) [§3135(5)**]
Causation Issues [§3135]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Sherry Kidd's third-party auto negligence action against Defendant Wissam Ali Salame. The Court of Appeals held, first, that Kidd failed to present sufficient evidence to create a question of fact as to whether her back injuries were caused by the subject car crash, and, second, that Kidd failed to present sufficient evidence to create a question of fact as to whether her neck injuries affected her general ability to lead her normal life—the third prong of the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich 180 (2010).

Read Full Summary

Bazzo v Doe, et al (COA – UNP 6/2/2022; RB #4424)

Michigan Court of Appeals; Docket #357178; Unpublished
Judges Swartzle, Cameron, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Negligence-Duty
Unlawful Lending or Use of Title, Registration, and/or Plate (MCL 257.256)

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Katherine Lynn Bazzo's negligence action against Defendant Groulx Automotive, Inc. ("Groulx"), a car dealership. Bazzo was injured while traveling as a passenger in Mohammad Waseen Qureshi's personal vehicle, which bore a Groulx dealer plate at the time of the subject crash. The Court of Appeals held that Bazzo could not proceed with a negligence claim against Groulx arising out of the crash—predicated on Groulx's violation of MCL 257.256—because the Groulx salesperson who gave Qureshi the dealer plate was not acting within the course and scope of his employment when he did so.

Read Full Summary

Meemic Ins Co v Christian Care Ministry, Inc (COA – PUB 6/9/2022; RB #4426)

Michigan Court of Appeals; Docket #356739; Published
Judges Ronayne Krause, Kelly, and Yates; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion

STATUTORY INDEXING:
Coordination with Other Health and Accident Medical Insurance [§500.3109a]

TOPICAL INDEXING:
Not Applicable

In this unanimous, published decision authored by Judge Yates, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Meemic Insurance Company's ("Meemic") reimbursement action against Defendant Christian Care Ministry, Inc. ("CCM"), in which Meemic sought reimbursement from CCM for no-fault PIP benefits it paid to cover Josephus Vanderlinden's medical expenses after Vanderlinden was seriously injured in a car crash. The Court of Appeals held that CCM, a voluntary health care sharing ministry under Michigan law, did not provide Vanderlinden, its participant/Meemic's insured, with "other health and accident coverage" for purposes of MCL 500.3109a, and thus was not subject to the coordination of coverage provision of Vanderlinden's no-fault policy with Meemic.

Read Full Summary

Hope Network Rehab Servs v Mich Catastrophic Claims Assoc, et al (COA – UNP 6/9/2022; RB #4427)

Michigan Court of Appeals; Docket #355372; Published
Judges Borrello, Jansen, and Murray; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Power of Catastrophic Claims Association [§3104(8)]
Reimbursement of Member Claims [§3104(10)(e)]
Rules and Procedures of Catastrophic Claims Association [§3104(7)]

TOPICAL INDEXING:
Not Applicable

In this unanimous, published, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant Michigan Catastrophic Claims Association's ("MCCA") motion for summary disposition, in which the MCCA sought dismissal of Plaintiff Hope Network Rehabilitation Services' ("Hope" or "Hope Network") action against it for tortious interference with a business relationship or expectancy. The Court of Appeals held, first, that Hope failed to present sufficient evidence to create a question of fact as to whether the MCCA intentionally interfered with Hope's business expectancy of Defendant Farm Bureau General Insurance Company of Michigan ("Farm Bureau") by threatening to withhold reimbursement from Farm Bureau if Farm Bureau settled Hope's underlying first-party action against it for an amount agreeable to both Hope and Farm Bureau. The Court held, second, that Hope Network failed to establish that it suffered damages as a result of the MCCA's alleged interference.

Read Full Summary

Williams v State Farm Mut Auto Ins Co, et al (COA – UNP 6/9/2022; RB #4428)

Michigan Court of Appeals; Docket #355448; Unpublished
Judges Cameron, O'Brien, and Swartzle; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Requirement that Benefits Were Unreasonably Delayed or Denied [§3148(1)]

TOPICAL INDEXING:
Case Evaluation – Accept/Reject in PIP Cases

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed in part, and vacated in part, the trial court's award of no-fault attorney fees in favor of Plaintiff Roderic Williams, after Williams's first-party action against Defendant State Farm Mutual Automobile Insurance Company ("State Farm") concluded at trial, reversed the trial court's award of prevailing-party costs to Williams, and vacated the trial court's denial of State Farm's motion for costs and fees related to post-trial work. As to the trial court's award of no-fault attorney fees, the Court of Appeals held that the trial court failed to make an explicit finding as to the unreasonableness of State Farm's refusal to pay other benefits for which it awarded Williams attorney fees under MCL 500.3148. As to the trial court's award of prevailing-party costs, the Court of Appeals determined, preliminarily, that the prior version of MCR 2.403(O)(6)—which provided for case evaluation sanctions—applied to this case. Since Williams did not do 10% better at trial than the case evaluation award he rejected, the Court of Appeals held that he was not the 'prevailing party' under the former MCR 2.403(O)(6), and thus not entitled to prevailing-party costs.

Read Full Summary

Pete's Auto and Truck Parts, Inc, et al v Greg Hibbitts Transp Co, et al (COA – UNP 6/9/2022; RB #4429)

Michigan Court of Appeals; Docket #355841; Unpublished
Judges Borrello, Jansen, and Murray; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:

Compulsory Insurance Requirements for Owners or Registrants of Motor Vehicles Required to Be Registered [§3101(1)]
Ways to Provide Required Security [§3101(3) + 3101(4)]
Nature and Scope of PPI Benefits (Property Damage and Loss of Use) [§3121(1)]
PPI Benefits Not Payable for Loss Related to Commercial Business [§3121(1)]
Entitlement to PIP Benefits: Transportational Function Requirement [§3105(1)]
General/Miscellaneous [§3135]
Limitations Period for PPI Claims [§3145(2)]

TOPICAL INDEXING:

Equitable Estoppel
Interpretation of Insurance Contracts
Revised Judicature Act – Tolling Statute of Limitations (MCL 600.5851 – 600.5856)

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition orders dismissing Plaintiff Pete's Auto and Truck Parts, Inc.'s ("Pete's") first-party action for no-fault property protection ("PPI") benefits against Defendant Fremont Insurance Company ("Fremont"), as well as Pete's third-party negligence action against Defendants Greg Hibbitts Transport Company and Stewart TRK, LLC ("GHTC" and "Stewart," respectively, individually; "the Hibbitts defendants," collectively). The building Pete's leased for its business operations was damaged after the engine of a semi-truck owned by the Hibbitts defendants and insured by Fremont caught fire while parked outside of it. The Court of Appeals held, first, that Pete's property damages arose out of the use of a motor vehicle as a motor vehicle and that Pete's tort claims against the Hibbitts defendants, therefore, were properly dismissed pursuant to MCL 500.3135(3). In so holding, the Court of Appeals applied Dye v Esurance Prop & Cas Ins Co, 504 Mich 167 (2019) retroactively to find that GHTC—the registered owner of the truck in question—maintained no-fault security on the truck for purposes of MCL 500.3101(1), even though the named insured on the policy which covered the truck was "Stewart Trucking, LLC," a different entity owned by GHTC's owner. As for Pete's PPI claim against Fremont, the Court of Appeals held that Pete failed to file suit within one year of the accident and that his action was therefore barred by MCL 500.3145(5).

Read Full Summary

Deda v Winters, et al (COA – UNP 6/9/2022; RB #4430)

Michigan Court of Appeals; Docket #356864; Unpublished
Judges Cameron, O'Brien, and Swartzle; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Sudden Emergency Doctrine

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's summary disposition order dismissing Plaintiff Preng Deda's third-party auto negligence action against Defendant Louis Joseph Winters and remanded for further proceedings consistent with its opinion. The Court of Appeals held that a question of fact existed as to whether Winters was negligent in rear-ending Deda's vehicle on the highway, or whether Deda unexpectedly swerved into Winters's lane and slammed on his brakes in front of Winters, thereby creating a sudden emergency for Winters.

Read Full Summary

Jones v Smith (COA – UNP 6/9/2022; RB #4431)

Michigan Court of Appeals; Docket #356865; Unpublished
Judges Borrello, Jansen, and Murray; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion, Link to Dissent

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]

TOPICAL INDEXING:
Not Applicable

In this 2-1, unpublished, per curiam decision (Murray, dissenting), the Court of Appeals reversed the trial court's summary disposition order dismissing Plaintiff Ricky Jones's third-party auto negligence action against Defendant Ashley Smith. The Court of Appeals held that a question of fact existed as to whether Jones satisfied the first and third prongs of the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich 180 (2010): specifically, whether Jones sustained an objectively manifested impairment as a result of the subject collision, which affected his general ability to lead his normal life.

Read Full Summary

Nationwide Mut Fire Ins Co v Cincinnati Ins Co (COA – UNP 6/9/2022; RB #4433)

Michigan Court of Appeals; Docket #357313; Unpublished
Judges Cameron, O'Brien, and Swartzle; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Definition of Registrant [§3101(2)(i)]
Exception for Occupants [§3114(4)]

TOPICAL INDEXING:
No-Fault Insurer Claims for Reimbursement

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Nationwide Mutual Fire Insurance Company's ("Nationwide") no-fault reimbursement action against Defendant Cincinnati Insurance Company ("Cincinnati"). The Court of Appeals held that, based on the unique facts of the case, Cincinnati was not an insurer in the order of priority for payment of the no-fault PIP benefits to which Deontae McKissick and Michael Witcher were entitled as a result of the subject motor vehicle accident, and, therefore, Nationwide —the insurer assigned to McKissick's and Witcher's claims by the Michigan Assigned Claims Plan (MACP)—was not entitled to reimbursement from Cincinnati for the benefits it paid to McKissick and Witcher.

Read Full Summary

New Horizon Chiropractic PLLC v State Farm Mut Auto Ins Co (COA – UNP 6/9/2022; RB #4432)

Michigan Court of Appeals; Docket #357148; Unpublished
Judges Boonstra, Gadola, and Hood; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Payments in Good Faith Defense [§3112]

TOPICAL INDEXING:
Assignments of Benefits – Validity and Enforceability
Releases and Settlements

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant State Farm Mutual Automobile Insurance Company's ("State Farm") motion for summary disposition, in which it sought dismissal of Plaintiff New Horizon Chiropractic PLLC's ("New Horizon") first-party action, and remanded for entry of an order granting State Farm's motion. The Court of Appeals held that New Horizon, Darryl White's assignee, was barred from bringing its action against State Farm because State Farm and White settled all White's claims for no-fault PIP benefits related to the subject motor vehicle accident before New Horizon notified State Farm of the assignments.

Read Full Summary

Mecosta Co Med Ctr v Metropolitan Grop Prop and Cas Ins Co (SC – PUB 6/10/2022; RB #4434)

Michigan Supreme Court; Docket #161628, 161650; Published
Before the Entire Bench; Authored
Official Michigan Reporter Citation: Forthcoming; Link to Opinion; Link to Court of Appeals Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Assignments of Benefits – Validity and Enforceability
Collateral Estoppel and Res Judicata

In this unanimous decision authored by Justice Viviano, the Supreme Court affirmed the judgment of the Court of Appeals, which held that Plaintiff Mecosta County Medical Center's ("Mecosta") first-party action seeking no-fault PIP benefits from Defendant Metropolitan Group Property and Casualty Insurance Company ("Metropolitan") was not barred by either res judicata or collateral estoppel. The Supreme Court held that Mecosta, Jacob Myers's assignee, was not bound by the judgment in Myers's separate first-party action against Metropolitan, because Mecosta obtained its assignment before the judgment in that action was entered. Thus, an assignee cannot be bound by a subsequent adjudication involving the assignor.

Read Full Summary

Mich Ambulatory Surgical Ctr v Liberty Mut Ins Co (COA – UNP 6/16/2022; RB #4436)

Michigan Court of Appeals; Docket #356082; Unpublished
Judges Letica, Kelly, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Providers Entitled to Charge Reasonable Amount for Services [§3157]
General / Miscellaneous [§3157]

TOPICAL INDEXING:
Evidentiary Issues

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Michigan Ambulatory Surgical Center's ("MASC") first-party action against Defendant Liberty Mutual Insurance Company ("Liberty Mutual"), in which MASC sought to recover unpaid no-fault PIP benefits related to medical treatment it provided to its assignor/Liberty Mutual's insured. The Court of Appeals held that MASC failed to present sufficient evidence to rebut Liberty Mutual's argument that MASC had double-billed for certain of its services.

Read Full Summary

Pellegrino v State Farm Mut Auto Ins Co, et al (COA – UNP 6/16/2022; RB #44345)

Michigan Court of Appeals; Docket #355805; Unpublished
Judges Letica, Kelly, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Evidentiary Issues

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's judgment of no cause of action following a jury trial in Plaintiff Antoinette Pellegrino's first-party action against Defendant State Farm Mutual Automobile Insurance Company ("State Farm"). The Court of Appeals held, first, that the trial court did not abuse its discretion by excluding evidence related to State Farm's handling of Pellegrino's claim for no-fault PIP benefits, because such evidence was not relevant to the central issue in this case: whether Pellegrino's injuries were caused by the subject motor vehicle accidents. The Court of Appeals held, second, that the jury's verdict was not against the great weight of the evidence, considering Pellegrino had a history of back and neck problems predating the accidents, and one doctor testified at trial that her injuries were entirely degenerative.

Read Full Summary

Cherry v Progressive Marathon Ins Co (COA – UNP 6/16/2022; RB #4439)

Michigan Court of Appeals; Docket #357722; Unpublished
Judges Letica, Kelly, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
One-Year-Back Rule Limitation – Tolling Under 2019 Amendments [§3145(1)]

TOPICAL INDEXING:
2019 PA 21 – Retroactivity
Legislative Purpose and Intent

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Christopher Cherry's first-party action against Defendant Progressive Marathon Insurance Company ("Progressive"). The Court of Appeals held that the 2019 amendments (2019 PA 21) to the no-fault act—specifically, that which added the "formal denial" tolling provision to MCL 500.3145(3)—did not apply retroactively, and that Cherry's action seeking to recover no-fault PIP benefits he incurred more than one-year prior to the filing date of his complaint—and prior to the effective date of the 2019 amendments—was barred pursuant to the former one-year-back rule.

Read Full Summary

Mich Head and Spine Institute, PC, et al v Mid-Century Ins Co, et al (COA – UNP 6/16/2022; RB #4436)

Michigan Court of Appeals; Docket #357144; Unpublished
Judges Letica, Kelly, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Exception for Occupants [§3114(4)]
When Claimants Can Receive PIP Benefits Through the Assigned Claims Facility [§3172(1)]

TOPICAL INDEXING:
Interpretation of Insurance Contracts

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant Mid-Century Insurance Company's ("Mid-Century") motion for summary disposition, in which Mid-Century sought dismissal of Plaintiff Michigan Head and Spine Institute's ("MHSI") first-party action against it. The Court of Appeals held that the subject Mid-Century no-fault policy did not offer broader coverage than what is required by the no-fault act—specifically, the Court held that the policy's definition of "insured" did not operate to extend coverage to an individual who would otherwise not have been able to claim no-fault PIP benefits from Mid-Century under the priority scheme set forth in MCL 500.3114.

Read Full Summary

Zeliasko v Al-Dorough, et al (COA – UNP 6/16/2022; RB #4438)

Michigan Court of Appeals; Docket #357397; Unpublished
Judges Borrello, Jansen, and Murray; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion; Link to Dissent

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]

TOPICAL INDEXING:
Not Applicable

In this 2-1 (Murray, dissenting), unpublished, per curiam decision, the Court of Appeals vacated the trial court's summary disposition order dismissing Plaintiff Emily Zeliasko's third-party auto negligence action against Defendant Abdulkareem Al-Dorough. The Court of Appeals held that Zeliasko presented sufficient evidence to create a question of fact as to whether she suffered a serious impairment of body function as a result of being rear-ended by Al-Dorough. Specifically, the Court held that a question of fact existed as to the first and third prongs of the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich 180 (2010) and codified in MCL 500.3135(5): whether Zeliasko sustained an objectively manifested impairment, and whether any such impairment affected Zeliasko's general ability to lead her normal life.

Read Full Summary

Barash, et al v Kolar, et al (COA – UNP 6/23/2022; RB #4445)

Michigan Court of Appeals; Docket #357578; Unpublished
Judges Letica, Kelly, and Riordan; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment of Body Function (McCormick Era: 2010 – Present) [§3135(5)**]

TOPICAL INDEXING:
Not Applicable

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Jamil Barash's third-party auto negligence action against Defendant Joseph Kolar. The Court of Appeals held that Plaintiff failed to present sufficient evidence to create a question of fact as to the first prong of the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich App 180 (2010)—whether he sustained an objectively manifested impairment as a result of the subject collision.

Read Full Summary

Greiwe v Hamilton, et al (COA – UNP 6/23/2022; RB #4444)

Michigan Court of Appeals; Docket #357124; Unpublished
Judges Markey, Shapiro, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Interpretation of Insurance Contracts
Underinsured Motorist Coverage in General

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant Meemic Insurance Company's ("Meemic") motion for summary disposition, in which Meemic sought dismissal of Plaintiff Alexus Greiwe's claim for underinsured motorist (UIM) benefits against it. The Court of Appeals held that Greiwe was ineligible for UIM benefits related to the subject car crash because the driver who caused the crash was not driving an 'underinsured motor vehicle' as that term was defined in the Meemic policy.

Read Full Summary

Alesevic v Gordon, et al (COA – UNP 6/23/2022; RB #4446)

Michigan Court of Appeals; Docket #358507; Unpublished
Judges Markey, Shapiro, and Patel; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Compulsory Insurance Requirements for Owners or Registrants of Motor Vehicles Required to Be Registered [§3101(1)]

TOPICAL INDEXING:
Interpretation of Insurance Contracts

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order dismissing Plaintiff Haris Alesevic's first-party action against Defendant Acceptance Indemnity Insurance Company ("Acceptance"). The Court of Appeals held that Defendant Progressive Michigan Insurance Company ("Progressive")—Alesevic's no-fault insurer—was solely responsible for Alesevic's PIP benefits related to the subject motor vehicle accident, because Alesevic's separate bobtail policy with Acceptance did not provide no-fault coverage.

Read Full Summary

Mitchner v Progressive Mich Ins Co, et al (COA – UNP 6/23/2022; RB #4443)

Michigan Court of Appeals; Docket #356698; Unpublished
Judges Gadola, Borrello, and Kelly; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion, Link to Dissent

STATUTORY INDEXING:
Objective Manifestation Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
General Ability / Normal Life Element of Serious Impairment (McCormick Era: 2010 – Present) [§3135(5)**]
Causation Issues [§3135]

TOPICAL INDEXING:
Not Applicable

In this 2-1 (Gadola, dissenting), unpublished, per curiam decision, the Court of Appeals reversed the trial court's summary disposition order dismissing Plaintiff Gordon Mitchner's third-party auto negligence action against Defendant Thomas Gaffney. The Court of Appeals held that Mitchner presented sufficient evidence to create a question of fact as to whether he suffered a serious impairment of body function as a result of the subject motor vehicle crash. Specifically, the Court held that there was a question of fact regarding the first and third prongs of the test for serious impairment of body function set forth in McCormick v Carrier, 487 Mich 180 (2010)—whether Gaffney sustained an objectively manifested impairment which affected his general ability to lead his normal life—as well as a question of fact on the issue of causation.

Read Full Summary

Bronson Health Care Group, Inc v Falls Lake Nat'l Ins Co, et al (COA – UNP 6/23/2022; RB #4442)

Michigan Court of Appeals; Docket #356319, 356333, 356334, 356341; Unpublished
Judges Cameron, Cavanagh, and Gadola; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Allowable Expenses: Reasonable Charge Requirement [§3107(1)(a)]
Requirement That Benefits Were Unreasonably Delayed or Denied [§3148(1)]

TOPICAL INDEXING:
Cancellation and Rescission of Insurance Policies

In this unanimous, unpublished, per curiam decision, the Court of Appeals affirmed the trial court's summary disposition order in favor of Plaintiff Bronson Health Care Group, Inc. ("Bronson"), in Bronson's first-party action against Defendant Falls Lake National Insurance Company ("Falls Lake"). The Court of Appeals held that Falls Lake failed to properly cancel the subject no-fault policy in the way prescribed by MCL 500.3020(1)(b), and thus remained responsible for payment of Bronson's patient's no-fault PIP benefits at the time of the subject motor vehicle-versus-pedestrian accident—approximately four months after Falls Lake's attempted cancellation. The Court of Appeals held, second, that the policy was not "effectively canceled"—such as would excuse Falls Lake's failure to comply with MCL 500.3020(1)(b)—by its insured cashing the policy cancellation/premium refund check. The Court of Appeals held, third, that summary disposition was properly granted in Bronson's favor as to the issue of whether its charges were reasonable, because Falls Lake presented no evidence in support of its argument to the contrary. The Court of Appeals held, fourth, that the trial court did not abuse its discretion in awarding Bronson no-fault attorney fees based on its finding that Falls Lake's denial of Bronson's claim for PIP benefits was unreasonable, in light of the facts surrounding Falls Lake's attempted cancelation of the policy.

Read Full Summary

Kodra v American Select Ins Co (COA – UNP 6/23/2022; RB #44341)

Michigan Court of Appeals; Docket #356166; Unpublished
Judges Boonstra, Gadola, and Hood; Per Curiam
Official Michigan Reporter Citation: Not Applicable; Link to Opinion

STATUTORY INDEXING:
Not Applicable

TOPICAL INDEXING:
Actual Fraud
Fraud/Misrepresentation
Cancellation and Rescission of Insurance Policy

In this unanimous, unpublished, per curiam decision, the Court of Appeals reversed the trial court's denial of Defendant American Select Insurance Company's ("American Select") motion for summary disposition, in which American Select sought dismissal of Plaintiff Dirina Kodra's first-party action against it. The Court of Appeals held that Kodra made a material misrepresentation in her original application for no-fault insurance with American Select, and that American Select was entitled to rescind her policy and deny her claim thereunder as a result.

Read Full Summary