



25800 Northwestern Hwy, Ste. 890
Southfield, MI 48075

Phone: 248-569-4646
Toll: 800-606-1717
Fax: 248-569-6737

E-mail: larry@buckfirelaw.com

Facebook: www.facebook.com/buckfirelaw
Twitter: www.twitter.com/buckfirelaw

We're on the Web!
www.BuckfireLaw.com

PRSR STD
US POSTAGE
PAID
MAIL WORKS II



Our No-Fault Service Provider Spotlight

R&R Transportation
711 W 13 Mile Road, Ste. 400 Madison Heights, MI
Ph: 248-397-8805 Fax: 248-397-8814

This month we spotlight R&R Transportation, a family owned and operated non emergency medical transportation company. R&R services all of Southeast Michigan and prides itself on timely, door to door service. Its mission is to provide dependable, courteous and most importantly safe service to its clients. It has a full fleet of M-Dot certified vehicles accessible to its clients seven days a week, and its dispatchers are available 24 hours a day, 7 days a week.

In order to ensure a comfortable ride all of R&R vehicles are climate controlled and are held to strict standards of cleanliness and preventative maintenance procedures. All of its chauffeurs are properly licensed and insured.

R&R understands transportation plays a vital role in the Michigan No-Fault system as it is imperative clients make it on time to their regularly scheduled visits with treating providers in order to achieve maximum recovery.

Its continuing success is contributed to its clients being satisfied, as well as building trusting and reliable relationships with several different medical providers, case workers, adjusters and attorneys throughout the State of Michigan.



One of R&R's M-Dot certified vehicles.

February 2013

Special points of interest:

- Can an out-of-state resident receive PIP benefits for an accident that occurred in Michigan?
- Under the parked car exceptions, when can a person NOT recover PIP benefits?

Inside this issue:

Deceased Enlisted Man Held to Have "Resided" With His Stepfather And Mother For Purposes of Insurance Policy	1 & 2
Insurance Company For An Out-of-State Resident Only Obligated To Pay No-Fault Benefits If It Has Filed Written Certification With The State of Michigan	2
2nd Annual Detroit Tigers Tickets Give-away to TBI & SCI Individuals	2
Buckfire & Buckfire, P.C. Is Proud Sponsor of Carnival of Care	2
Parked Car Exception Does Not Apply When Motor Vehicle Is Not Used For Its Transportation Function	3
Ask GEORGE - No-Fault Insurance Expert	3
No-Fault Service Provider Spotlight	4

The Michigan No-Fault Newsletter

Deceased Enlisted Man Held to Have "Resided" With His Stepfather And Mother For Purposes of Insurance Policy

The Michigan Court of Appeals recently held that Galen McDevitt, deceased, was a "covered person" under the liability insurance policy issued to his stepfather William Lisowski. The insurance company filed a lawsuit against providing insurance coverage for no-fault benefits by claiming that the decedent did not reside in the home and was therefore not covered under the auto insurance policy.

In the present case, United Services issued a policy to William Lisowski that promised to pay compensatory damages for which **any covered** person becomes legally liable because of an auto accident. The policy covers family members that reside with the insured person. At issue was whether Galen McDevitt was a resident of William Lisowski's house.

In April, 2009, Galen enlisted in the army. At the end of May 2010, he returned home to Michigan for one week of leave before his scheduled deployment to Afghanistan. Galen visited his sister in Grand Rapids, who allowed him to drive her leased Jeep. Galen was staying with the Lisowskis and driving his sister's Jeep when the accident occurred on June 5, 2010.

The insurance company argued that McDevitt was not a resident of Lisowski's home, but the court disagreed because:

"Galen McDevitt was a resident of the Lisowski household at the time he was in the automobile accident in question. It also is relevant that the Lisowskis also considered their home to be Galen's home. Most of his personal belongings were there, he received some of his mail there, the Lisowskis paid some of his monthly expenses, and he had lived there several months before enlisting in the Army. In addition, it was to the Lisowski home he came to before his deployment to Afghanistan."

The Court of Appeals utilized the totality of circumstance test for determining whether a child is domiciled with, or a resident of his parents' household.

Bottom Line

- **Totality of the Circumstances Test is appropriate for determining residency of an individual for insurance coverage.**
- **Service Men that base out of their parent's home but are often gone with the military can still be considered residents when they are home on leave.**



**Michigan Attorney
George G. Burke**

Michigan personal injury attorney George G. Burke has devoted his practice on personal injury litigation, with an emphasis on automobile negligence and Michigan no-fault law. George also practices general civil litigation. He is a licensed attorney in the State of Michigan and the Commonwealth of Massachusetts. George has an undergraduate degree from Syracuse University and a law degree from the Boston College Law School. He has recovered tens of millions of dollars for his clients over the course of his career.

Insurance Company For An Out-Of-State Resident Only Obligated To Pay No-Fault Benefits If It Has Filed Written Certification With The State Of Michigan

In an action for declaratory judgment by United Farm Family Insurance against David and Nickolas Bruss, an unpublished opinion of the Court of Appeals decided on January 15, 2013, (Docket No. 308737), the Court of Appeals declared that United Farm was not obligated to pay PIP benefits under the No-Fault Act because it had not filed a certification with the State of Michigan.

Defendants Bruss were residents of another state who got into a car accident in Michigan. Their insurance company had not filed a certification with the State of Michigan and according MCL 500.3163 United Farm was not obligated to provide PIP benefits.

Bottom Line

- **Out of State residents may not receive PIP benefits for accidents that occur in Michigan unless their insurance company has filed a written certification with the State.**



2nd Annual Detroit Tigers Tickets Giveaway For TBI And SCI Individuals

NOMINTE YOUR TBI & SCI CLIENT TODAY TO RECEIVE FREE TICKETS TO A 2013 DETROIT TIGERS GAME!

If you did not take advantage of this opportunity last year, this is your chance! Buckfire & Buckfire, P.C. will be donating tickets to fifteen Detroit Tigers game during the 2013 season to TBI and SCI patients. For more information and to nominate your client today visit <http://bit.ly/buckfireticketsgiveaway>

Buckfire & Buckfire, P.C. Is Proud Sponsor of Carnival of Care

The Careforward Foundation is holding its annual Carnival of Care at the Macomb Community College Sports & Expo Center on Saturday, March 16, 2013 from 10:00 A.M. to 3:00 P.M. Buckfire & Buckfire, P.C. is proud to announce that we will be a sponsor of this event for the fifth consecutive year.

The Carnival of Care is held to help raise money for The Brain Injury Association of Michigan (BIAMI). It is a free fun-filled day of music, food, face painters, balloon artists, carnival games and much more for survivors of auto accidents and brain injuries, and their caregivers.

Through our cases, we realize how important organizations such as The Brain Injury Association are to our clients. We are proud to again be a sponsor of such an exceptional event that sponsors the BIAMI, and will continue to promote awareness and support for brain injury victims and the BIAMI.

Buckfire & Buckfire, P.C. welcomes all caregivers and brain injury survivors to attend this event. Come visit our booth at the Carnival of Care and enjoy a free fun-filled day!



Parked Car Exception Does Not Apply When Motor Vehicle Is Not Used For Its Transportational Function

In *Dinkins v. State Farm*, an unpublished opinion of the Court of Appeals decided on December 13, 2012, (Docket No. 307363), the Court of Appeals affirmed the trial court's decision granting summary disposition to Defendant State Farm.

The case involved a woman who slipped on ice after removing a bag of DVDs from the passenger side of her vehicle and injured herself. She contended that the insurance company had to pay for her no-fault insurance benefits because she was unloading items from her vehicle when she fell. She testified that her left hand was on the door shutting it and her right hand had the bag in it when she slipped.

Recovery under the no-fault act for injuries involving a parked car can be made under certain circumstances. This includes when an injury was a direct result of physical contact with equipment permanently mounted on the vehicle, while the equipment was being operated or used, or property being lifted onto or lowered from the vehicle in the loading or unloading process.

The Court of Appeals denied the no-fault claim by finding that the Plaintiff's injury did not arise from one of the exceptions to the parked car rule. The Court explained that it was not clear the injury was a direct result of physical contact with property being lifted onto or lowered from the parked vehicle in the loading or unloading process because the bag was not peculiarly heavy or unwieldy.

Further, Court stated that even if her hand remained on the door when she slipped, that the door is part of the car itself and not equipment permanently mounted on it; and that her injury was not closely related to the transportational function of motor vehicles because she had not driven it recently and was using the vehicle more as a storage locker than a vehicle.

Bottom Line

- **If a vehicle is not being used as a motor vehicle for its transportational function then a person cannot recover PIP benefits for injuries under the parked car exceptions.**

ASK GEORGE - No-Fault Insurance Expert



Q: Can a person get no-fault insurance benefits if they were the driver in a single car accident in Michigan?

George: Yes, a person can receive no-fault benefits, even if the accident was the persons own fault. If a person was the owner of the vehicle being driven at the time of the accident, the person would need to have a no-fault insurance policy in effect at the time of the accident. If a person was driving someone else's vehicle at the time of the accident and was not insured, the person is most likely still entitled to those benefits.



**Michigan's
No-Fault Social
Network**

Join the No-Fault
Network

<http://nofaultnetwork.com>

FREE MEMBERSHIP

- Make & Receive Professional Referrals
- Network With Other Professionals
- Publicize Meetings and Events
- Find A Support Group
- Discover New Service Providers
- Promote Your Business or Service For Free
- Post Employment Opportunities
- Find New Employment