



25800 Northwestern Hwy, Ste. 890
Southfield, MI 48075

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

E-mail: daniel@buckfirelaw.com

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

PRSR STD
US POSTAGE
PAID
MAIL WORKS II

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



Our No-Fault Service Provider Spotlight

KC Rehabilitation Consultants
Farmington Hills, MI
Ph: 248-661-6688 www.kcrehabilitation.com

This month we spotlight KC Rehabilitation Consultants (KCRC), a medical and vocational case management company. KCRC was founded in 1993 and has been providing medical case management, vocational rehabilitation and occupational therapy services for the past nineteen years.

KCRC works with clients of all ages and all levels of injury, with its staff covering the entire lower peninsula of Michigan. Its clients include infants to senior citizens who are dealing with traumatic brain injuries, spinal cord injuries and other injuries. Its professionals are familiar with return to school and return to work issues.

KCRC medical case managers work with injured clients, their families, and health care teams to tailor a specific plan that is client centered and individualized. The case managers help the patient through the physician visits, therapies and ordered tests, as well as assist the injured patient and his or her family navigate through the network of health care services that follow an injury.

KCRC vocational counselors assist individuals who are medically and cognitively stable in finding employment. Possible employment may include competitive employment, a sheltered workshop or volunteer activities depending upon the client's skills and interests.

KCRC occupational therapists work with patients and the rehabilitation team to modify homes and make them accessible for individuals with disabilities. They also provide the documentation needed to approve the plans.

For any questions regarding KC Rehabilitation Consultants, please contact Charlotte Tobias (President) or Liz Subrzycki (Customer service Representative) at 248.661.6688.



October 2012

Special points of interest:

- **When is an out of state resident injured in a Michigan auto accident eligible to receive no-fault benefits?**
- **How well do you know the Michigan's No-Fault Insurance Laws?**

Inside this issue:

Out of State Residents Involved in Auto Accidents in Michigan	2
Take the Michigan Auto No-Fault Insurance Quiz And Be Entered To Win A Prize	3
Daniel Buckfire Speaks At The 2012 Michigan No-Fault Institute	3
No-Fault Service Provider Spotlight	4

The Michigan No-Fault Newsletter

No Governmental Immunity For Public Bus That Stops Suddenly

In *Weiss v. Suburban Mobility Authority*, unpublished opinion of the Court of Appeals decided on September 11, 2012 (Docket No. 304269), the Court of Appeals affirmed in part and reversed in part the trial court's ruling denying summary disposition for the defendant, Suburban Mobility Authority for Regional Transportation (SMART).

Plaintiff, Dan Wiess, is the personal representative of the estate of Catherine Reynolds. Ms. Reynolds was a wheelchair passenger on a bus owned and operated by defendant. During the ride, the driver of the bus suddenly applied the breaks causing Ms. Reynolds to fall out of her wheelchair and onto the floor, breaking her hip. While hospitalized, Ms. Reynolds died from pneumonia.

It is undisputed that defendant is a governmental agency; at issue in this case is whether plaintiff's lawsuit is barred by governmental immunity. The trial court denied defendant's motion for summary disposition on this issue and defendant appealed.

The bus driver testified that she noticed, prior to the incident, that the driver

in front of her "kept touching his breaks." The bus driver looked away to check her mirrors and when she returned her attention the vehicle in front of her had "jammed on the breaks," so the bus driver hit her breaks hard to avoid an accident.

Defendant argued that sudden starts and stops have long been considered normal incidents of travel. The Court of Appeals, however, explained that a sudden jerk or stop precipitated by negligent behavior is not considered a normal incident of travel. The bus driver was not stopping to let a passenger off, but stopping suddenly to avoid a collision.

The Court of Appeals noted that governmental entities are not immune from liability when the injury results from the negligent operation of a motor vehicle.

The defendant, however, claims that the bus driver did not operate the vehicle negligently. The Court held that whether the driver acted negligently was a question of fact that jurors could reasonably disagree about and upheld the trial court's denial of summary judgment.

The Court explained several different ways in which it could be reasonably argued that the bus driver acted negligently by:

(1) Failing to exercise ordinary care and caution in light of the conditions and circumstances existing, including the wet road conditions, the breaking behavior of the driver in front of the bus, and the stopping distance required of a bus.

(2) Violating the Michigan Vehicle Code by failing to operate the bus at a prudent speed while also maintaining an assured clear distance ahead.

(3) Violating the Michigan Vehicle Code by following too closely.

Defendant also argued that Plaintiff's claim of loss of consortium was barred by governmental immunity. The Court of Appeals agreed citing the Supreme Court decision in *Wesch v. Mecosta Co. Rd. Comm.*, 480 Mich. 75 (2008), which held that MCL 691.1405 does not waive immunity for loss of consortium claims, only for claims of bodily injury and property damage. The Court of Appeals reversed the trial court's denial of summary disposition on that point.

The case was remanded for further proceedings.

Bottom Line: Governmental immunity does not exist for a bus driver who negligently operates a vehicle causing injury to a passenger by suddenly stopping.



**Michigan Attorney
Dondi R. Vesprini**

Michigan personal injury attorney Dondi R. Vesprini specializes in legal issues involving motorcyclists, such as motor vehicle accidents, roadway defect accidents, and Michigan No-Fault Insurance claims. He is a licensed attorney in the State of Michigan and has considerable expertise in all areas of Michigan law pertaining to motorcyclists and the complex insurance laws. Dondi earned his Bachelor's degree from Oakland University and his Juris Doctor degree from the University of Detroit Mercy School of Law. He has recovered millions of dollars in verdicts and settlements for his injured clients.

Out of State Residents Involved In Auto Accidents in Michigan

Our firm is often contacted with questions regarding whether an individual who is not a Michigan resident can receive no-fault benefits if the person is injured in an auto accident while in Michigan.

It is not always an easy answer in determining whether an out of state resident can receive no-fault benefits. Often, it can be quickly determined that a person can receive no-fault benefits, but the question of which insurance company has priority for paying for the no-fault benefits can take some time.

The following is a quick guide to determine the eligibility for no-fault benefits by out of state residents involved in Michigan auto accidents:

- 1.) Pedestrians and bicyclists who are involved in auto accidents in Michigan are always entitled to receive no-fault benefits with regards to injuries sustained in an auto accident in Michigan.
- 2.) Drivers and passengers of Michigan insured motor vehicles which are involved in Michigan auto accidents are always entitled to receive no-fault benefits with regards to injuries sustained in an auto accident in Michigan.
- 3.) Drivers and passengers of motor vehicles not registered in Michigan which are involved in Michigan auto accidents may be able to receive no-fault benefits depending on their auto insurance policy. If the applicable auto insurance policy is certified in Michigan, then under MCL 500.3163, the injured person can receive Michigan no-fault benefits up to \$500,000.00.

MCL 500.3163 states as follows:

(1) An insurer authorized to transact automobile liability insurance and personal and property protection insurance in this state shall file and maintain a written certification that any accidental bodily injury or property damage occurring in this state arising from the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle by an out-of-state resident who is insured under its automobile liability insurance policies, is subject to the personal and property protection insurance system under this act.

(2) A nonadmitted insurer may voluntarily file the certification described in subsection (1).

(3) Except as otherwise provided in subsection (4), if a certification filed under subsection (1) or (2) applies to accidental bodily injury or property damage, the insurer and its insureds with respect to that injury or damage have the rights and immunities under this act for personal and property protection insureds, and claimants have the rights and benefits from the electing insurer as if it were an insurer of personal and property protection insurance applicable to the accidental bodily injury or property damage.

(4) If an insurer of an out-of-state resident is required to provide benefits under subsections (1) to (3) to that out-of-state resident for accidental bodily injury for an accident in which the out-of-state resident was not an occupant of a motor vehicle registered in this state, the insurer is only liable for the amount of ultimate loss sustained up to \$500,000.00. Benefits under this subsection are not recoverable to the extent that benefits covering the same loss are available from other sources, regardless of the nature or number of benefit sources available and regardless of the nature or form of the benefits.

Here is the link to find out whether an insurance company is certified in Michigan:

http://www.michigan.gov/documents/cis_ofis_cert_3163_25526_7.pdf

Drivers and passengers of motor vehicles not registered in Michigan that are involved in Michigan auto accidents will not be able to receive no-fault benefits, if the applicable auto insurance policy is not certified in Michigan under MCL 500.3163.

In this situation, there will be a major injustice as injured persons will not be able to receive no-fault benefits, and they are unable to sue the negligent drivers for their medical bills, loss of wages, and household chores.

Want to Know How Well You Know Michigan's No-Fault Insurance Laws?

Take the Michigan Auto No-Fault Insurance Quiz and Be Entered To Win a Prize

Visit <http://bit.ly/No-FaultQuiz> to take the Michigan Auto No-Fault Insurance Quiz now.

- ⇒ Every individual who scores 100% will receive a Winner's Certificate and be automatically entered into our giveaway contest.
- ⇒ **Every week through December 1, 2012, we will give away a \$20 Starbucks gift card to a random winner.** Contest ends December 1, 2012. We will contact you if you are the lucky winner.
- ⇒ You can take the quiz more than one time but you are only eligible to win on your first attempt. *You will be able to enter the contest again when a new No-Fault Quiz is posted on December 3, 2012.*

Remember, this contest continues until December 1st, so even if you have taken the quiz, we encourage you to share this quiz with your colleagues and friends so they too can test their knowledge, and have a chance of winning the weekly prize.

Daniel Buckfire Speaks At The 2012 Michigan No-Fault Institute



Daniel Buckfire speaking at the 9th annual No-Fault Institute.

Buckfire & Buckfire, P.C.'s Attorney Daniel Buckfire was an invited speaker at the 9th annual Michigan No-Fault Institute, presented by the Michigan Association for Justice on September 20 and 21, 2012. The two day event was attended by attorneys from the entire State of Michigan.

The seminar, "The Assault on Auto No-Fault: A War on Many Fronts," was held at the Westin Hotel in Southfield, MI.

As an expert in Michigan auto no-fault law, Daniel Buckfire spoke on the Insurance Industry, discussing topics such as the auto insurance companies approaches, tactics used to deny claims, personnel, and more.

"I was very honored to be an invited speaker at the No-Fault Institute. Our Michigan No-Fault system is continually being threatened by auto insurance companies and our legislature. It is very important that attorneys are aware of what is going on in the industry so that the rights of accident victims are protected," says Daniel.



**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*