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Our No-Fault Service Provider Spotlight

Centria Home Rehabilitation

Serving the entire State of Michigan

Ph: 248-299-0030

www.centriahealth.com



This month we spotlight Centria Home Rehabilitation. Centria Home Rehabilitation offers a comprehensive approach to providing care and rehabilitative services to its clients in a living environment that fits their needs. From providing light respite care and family training to 24/7 nursing care with complex needs, Centria Home Rehabilitation is able to assist clients in any type of situation.

Its services include attendant care, private duty nursing (hourly), skilled visits, wound care, speech therapy, occupational therapy, physical therapy, social work, and recreational therapy. These services are usually provided in the comfort of the client's home. Centria Home Rehabilitation, though, also has a residential program that can provide short to long term handicap accessible housing.

Its housing program can assist clients who are currently stuck in an environment that does not meet their physical or social needs in their recovery process. For clients who would like to be home with their families or out of an institutional setting prior to home modifications being completed, a short term basis is an ideal option.

Centria Home Rehabilitation has been very active in protecting, promoting, and enhancing the No-Fault system. It has made numerous trips to the Capitol to meet State Legislators, and is working with CAPP, CPAN, and MBIPC on stopping the proposed no-fault reform legislation.

To nominate yourself or another no-fault provider for the No-Fault Service Provider Spotlight, please e-mail your nomination to Kathryn@BuckfireLaw.com. Our newsletter is read by 1,000 readers every month!

March 2012

Special points of interest:

- How do I nominate my TBI and SCI clients to receive tickets to a 2012 Detroit Tigers Game?
- How does a passenger receive no-fault insurance coverage through the insurer of an uninsured driver?

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The Michigan No-Fault Newsletter

Court Reinstates Wrongful Death Case Involving Motorcyclist and Multiple Vehicles

The case of *Roberts v. Cooley*, unpublished per curiam opinion of the Court of Appeals, decided December 29, 2011, (Docket No. 299985), arises out of a motor vehicle accident that occurred on M-37, near Newaygo, Michigan. The pertinent portion of M-37 is a two-lane highway with a paved shoulder.

Edilee Kail Roberts was driving her motorcycle north on M-37. Driving south on M-37 was a succession of three vehicles: a truck driven by defendant Cooley, a van driven by defendant Quinn, and a truck driven by defendant Adams.

After defendant Cooley missed a right turn into a parking lot, he pulled onto the shoulder. Seeing this, Quinn either slowed her vehicle or stopped it completely in the roadway or partially on the shoulder of the roadway.

In an effort to avoid colliding with Quinn, defendant Adams drove his vehicle across the double yellow center line into the northbound

lane, colliding with Roberts' motorcycle and causing Roberts' death.

The Plaintiff personal representative of Roberts' estate filed suit against all defendants. Plaintiff reached a settlement with defendant Adams and he was dismissed from the case.

Defendants Quinn and Cooley asked the trial court to dismiss the lawsuit against them. Defendant Quinn argued that she had not acted negligently and that her conduct was reasonable and appropriate. Defendant Cooley argued that the evidence did not establish that he violated any legal duty to the Plaintiff or that his vehicle was a proximate cause of Roberts' death. The trial court agreed and dismissed the case against Quinn and Cooley.

The Court of Appeals reversed, holding that the trial court impermissibly made factual findings and weighed the credibility of

the witnesses. Cooley's passenger Daniel Graber testified that there were "a multitude of things that happened that day that led to" Roberts' tragic death, including Cooley "being on the side of the road . . . to start the whole sequence," Quinn's reaction to the presence and location of Cooley's vehicle, and Adams' reaction to Quinn's actions.

In addition, there was conflicting evidence as to whether Cooley's actions were smooth or were actually sudden and abrupt, and whether he actually pulled completely off onto the shoulder.

There were similar questions and conflicting testimony regarding Quinn's conduct. These were questions for a jury to resolve, not the trial judge. Accordingly, the Court reversed the dismissal and remanded the case back to the trial court.

Court Issues Decision In Priority Dispute Between Two No-Fault Insurers

In *Titan Insurance Company v. Westfield Ins. Co.*, unpublished per curiam opinion of the Court of Appeals, decided December 27, 2011, (Docket No. 301328), the Court issued an opinion regarding a priority dispute between two no-fault insurers.

The basic facts are as follows: Jerald Sours III (Sours) was a passenger in a vehicle that was owned and being operated by Nakeysa Vond (Vond). They were in an automobile accident and Sours sustained injuries. Sours did not have automobile insurance and

was not entitled to coverage through a resident relative under MCL 500.3114 (1).

MCL 500.3114 sets forth the order of insurer responsibility for the payment of no-fault insurance benefits.

See COURT ISSUES, page 2



**Michigan Attorney
Daniel L. Buckfire**

Michigan car accident attorney Daniel L. Buckfire has devoted his career to representing individuals who have suffered serious injuries in car, truck, and motorcycle accidents. He is recognized as a legal expert throughout the State of Michigan on motor vehicles accidents and cases involving Michigan No-Fault Insurance Benefits. Daniel has an undergraduate degree from the University of Michigan School of Business and a law degree from the University of Michigan Law School.

COURT ISSUES, cont. from Page 1

Vond's vehicle was uninsured, but she resided with her father, Daniel Vond, and he had a no-fault insurance policy with Westfield Insurance Company (Westfield). That policy provided, in pertinent part, that it would "pay damages for bodily injury or property damage for which any insured becomes legally responsible because of an auto accident."

An "insured" was defined as "you or any family member for the ownership, maintenance or use of any auto or trailer." And a "family member" was defined as "a person related to you by blood . . . who is a resident of your household." It is undisputed that Vond was Daniel Vond's daughter and she lived with him in his household.

However, Sours' personal protection insurance (PIP) benefits were paid by Titan Insurance Company (Titan) which was assigned the claim by the Michigan Assigned Claims Facility.

After Titan denied further claims, Sours sued Titan. Titan then filed a cross-claim against Westfield, alleging that Westfield was higher in priority under MCL 500.3114(4) and, thus, responsible for Sours' insurance benefits.

Westfield eventually moved to dismiss Titan's cross-claim, which was granted by the trial court on the ground that Vond was not an "insured" within the meaning of the Westfield policy because it excluded from coverage "any vehicle . . . owned by any family member" that was not insured with Westfield.

On Appeal, Titan argued that the trial court errone-

ously construed § 3114(4) and, thus, its conclusion that Westfield was not liable for Sours' no-fault insurance benefits should be reversed.

Because Sours had no applicable coverage as set forth in MCL 500.3114(1), he was required to seek personal protection benefits first from "the insurer of the owner or registrant of the vehicle occupied," and, second, from "the insurer of the operator of the vehicle occupied." MCL 500.3114(4).

Vond was both the owner and operator of the vehicle Sours was occupying when he sustained his injuries. Thus, the issue in the case was whether Westfield was "the insurer of the owner" and "the insurer of the operator," i.e., Vond's insurer, for purposes of MCL 500.3114(4) and was therefore responsible for the payment of Sours' Michigan no-fault benefits.

For that determination the Court looked to the Westfield's insurance policy.

As discussed earlier, Vond's father, Daniel Vond, had a no-fault insurance policy with Westfield. Under the liability coverage section, that policy provided, in pertinent part, that Westfield would "pay damages for bodily injury or property damage for which any insured becomes legally responsible because of an auto accident."

An "insured" was defined as "[y]ou or any family member for the owner-

ship, maintenance or use of any auto or trailer." And a "family member" was defined as "a person related to you by blood . . . who is a resident of your household."

Thus, the Court held that it was clear that, for purposes of § 3114(4) [the Michigan no-fault priority statute], Vond was an "insured" of Westfield and, thus, Westfield was "the insurer of the owner" and "the insurer of the operator" of the vehicle occupied by Sours.

Accordingly, the Court found that Westfield was the insurer of Vond, who was the owner and operator of the vehicle occupied by Sours when he sustained injuries in a motor vehicle accident. Thus, Westfield was higher in priority than Titan with respect to the payment of Sours' personal protection insurance benefits and therefore was responsible for paying for the Michigan no-fault benefits.

This case is a very interesting case. The driver and the owner of the uninsured vehicle would not be entitled to Michigan no-fault benefits because she was driving her uninsured motor vehicle. Her passenger was still entitled to receive no-fault benefits through her (the driver's) father's insurance policy under the Michigan no-fault priority statute.



**Detroit Tigers Tickets For
TBI And SCI Individuals**

Nominate your TBI & SCI client today to receive free tickets to a 2012 Detroit Tigers Game!

Announcing the Buckfire & Buckfire P.C. Detroit Tigers Ticket Giveaway!

Buckfire & Buckfire, P.C. is donating tickets to fifteen Detroit Tigers game during the 2012 season traumatic brain injury (TBI) and spinal cord injury (SCI) patients. Recipients will receive two excellent seats in the handicapped section of the lower deck in Comerica Park along with a handicapped parking pass.

"Our firm is heavily involved in a large number of important organizations in the community. We think that giving away Tigers tickets in the handicapped accessible section of the ballpark is a great way to lift the spirits of TBI and SCI survivors so they can enjoy the national pastime," says attorney Daniel Buckfire.

Nominations for the tickets must be made by medical providers and nurse case managers who are involved in the care and treatment of the nominee. Nominators can print the Nomination Form at <http://bit.ly/buckfireticketsgiveaway>

Instructions for submission are included on the Nomination Form.

A different winner will be chosen for each game. Tickets will be distributed in a timely manner. First available game for nomination is Opening Day on Thursday, April 5th against the Red Sox at 1:05 p.m. Go Tigers!

ASK DAN - The No-Fault Insurance Expert



Q: How much can a claimant receive from the no-fault insurer for cooking, cleaning, mowing the lawn and other household chores for services performed by family members or friends?

Dan: These are called replacement service benefits. Replacement service benefits are capped at \$20.00 per day and are available for up to the first three years following the accident. The services must be for things the injured person did for himself/herself or his/her dependents before the accident and should be authorized by a treating physician.

Q: What type of proof is required for the no-fault insurer to pay a claim?

Dan: The No-Fault Act requires "reasonable proof of the fact and the amount of loss" and that the charges be "reasonable." Typically, in a wage loss claim, proof of past income and a disability note will usually suffice. In an attendant care or replacement service claim, a disability note from the doctor and some sort of proof from the care providers with a list of the days and description of the daily services provided along with a demand for payment is sufficient. For medical expenses, an itemized bill with medical records should generally be sufficient.

Have a friend or colleague who would like to receive our monthly Michigan No-Fault newsletter?

Email or call Kathryn at Kathryn@BuckfireLaw.com or 248-569-4646 with their contact information and we will add them to our mailing list!

**Buckfire & Buckfire
Detroit Tigers
Tickets Giveaway**

"We believe that giving back to the community not only enriches our own lives but also makes us better attorneys for our catastrophically injured clients."
Lawrence J. Buckfire

Schedule of Tiger Tickets

Available for Nomination

***Note: All games start at 1:05 P.M.**

- April 5, Red Sox
- April 22, Rangers
- April 25, Mariners
- May 6, White Sox
- May 20, Pirates
- June 3, Yankees
- June 19, Cardinals
- July 5, Twins
- July 8, Royals
- July 22, White Sox
- August 5, Indians
- August 7, Yankees
- August 26, Angels
- September 23, Twins
- September 27, Royals