

IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | |
|----------------------|--------------------------------|
| ROCHELLE D. SHIPLEY, | § |
| | § No. 450, 2005 |
| Plaintiff Below- | § |
| Appellant, | § |
| | § |
| v. | § |
| | § Court Below—Superior Court |
| STATE FARM MUTUAL | § of the State of Delaware, |
| AUTOMOBILE INSURANCE | § in and for New Castle County |
| COMPANY, | § C.A. No. 04C-09-092 |
| | § |
| Defendant Below- | § |
| Appellee. | § |

Submitted: February 17, 2006

Decided: April 24, 2006

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 24th day of April 2006, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The plaintiff-appellant, Rochelle Shipley, filed this appeal from the Superior Court's dismissal of her complaint for failure to properly serve the defendant-appellee, State Farm Mutual Automobile Insurance Company. We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Shipley filed her complaint in Superior Court on September 10, 2004 seeking uninsured motorist benefits for

injuries she sustained in an automobile accident on September 12, 2001. The complaint purportedly was served on State Farm on March 10, 2005 when the Sheriff served a copy of the complaint on a receptionist at a local office of a State Farm agent. State Farm filed a motion to dismiss Shipley's complaint on the grounds that service of the complaint was not properly perfected under 18 Del. C. § 524(c)¹ and because service of the complaint was untimely under Superior Court Civil Rule 4(j).² After a hearing, the Superior Court granted State Farm's motion to dismiss.

(3) On appeal, Shipley argues that service of the complaint was sufficient because the State Farm receptionist was an "agent" for service under Superior Court Civil Rule 4(d)(3). We disagree. Section 524(c) of Title 18 is clear that service on a foreign insurer, such as State Farm, may only be perfected by serving the Insurance Commissioner. Shipley did not show good cause why service was not perfected as required by law.

¹ The statute provides, "Service of such process against a foreign or alien insurer shall be made *only* by service thereof upon the Commissioner." 18 Del. C. § 524(c) (1999) (emphasis added).

² Superior Court Civil Rule 4(j) provides, "If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion."

Accordingly, the Superior Court did not err in dismissing her complaint for insufficient service.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice