

STATE OF MICHIGAN
COURT OF APPEALS

FRANK HENSLEY,

Plaintiff-Appellant,

v

CONTINENTAL WESTERN INSURANCE CO.,
an Ohio Corporation,

Defendant-Appellee,.

And

WERCH TRUCKING, INC.,

Defendant.

UNPUBLISHED

February 1, 2000

No. 210649

Allegan Circuit Court

LC No. 96019567 ND

FRANK HENSLEY,

Plaintiff-Appellee,

v

CONTINENTAL WESTERN INSURANCE CO.,
an Ohio Corporation,

Defendant-Appellant,

and

WERCH TRUCKING, INC.,

Defendant.

No. 214143

Allegan Circuit Court

LC No. 96019567 ND

Before: McDonald, P.J., and Neff and Smolenski, JJ.

SMOLENSKI, J. (concurring in part and dissenting in part).

I respectfully dissent from the majority's opinion rejecting plaintiff's second claim of error in Docket No. 210649. Under the facts of this case, I would find that Continental was estopped from asserting plaintiff's failure to satisfy the one-year statute of limitations under the no-fault act, MCL 500.3145(2); MSA 24.13145(2). See *Cincinnati Ins Co v Citizens Ins Co*, 454 Mich 263; 562 NW2d 648 (1997). I concur with the majority's opinion regarding plaintiff's first and third claims of error in Docket No. 210649 and with the majority's opinion in Docket No. 214143.

/s/ Michael R. Smolenski