

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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YVONNE WILLIAMS,

Plaintiff-Appellee,

v

SUBURBAN MOBILITY AUTHORITY FOR  
REGIONAL TRANSPORTATION,

Defendant-Appellant,

and

JOHN DOE,

Defendant.

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UNPUBLISHED  
December 9, 2010

No. 293061  
Wayne Circuit Court  
LC No. 09-001387-NI

Before: WILDER, P.J., and CAVANAGH and M. J. KELLY, JJ.

PER CURIAM.

Defendant Suburban Mobility Authority for Regional Transportation (SMART) appeals as of right from a circuit court order denying its motion for summary disposition based on plaintiff Yvonne Williams' alleged failure to provide timely notice of her claim. Because the trial court correctly determined that Williams timely gave the required notice and, for that reason, properly denied SMART's motion, we affirm. We have decided this appeal without oral argument under MCR 7.214(E).

MCL 124.419 allows for "ordinary claims against a common carrier" on the condition that "written notice of any claim based upon injury to persons or property shall be served upon the authority no later than 60 days from the occurrence" giving rise to the injury. An unknown bus driver allegedly injured Williams on November 12, 2008. Williams sent a letter to the agent designated by SMART regarding the circumstances of the incident on November 29, 2008, and her attorney sent another letter directly to SMART on January 12, 2009. The trial court determined that Williams' letter of November 29 met the notice requirements of the statute.

On appeal, SMART argues that the trial court erred when it concluded that the notice requirements had been met. This Court reviews de novo a trial court's decision on a motion for summary disposition. *Gillie v Genesee Co Treasurer*, 277 Mich App 333, 344; 745 NW2d 137 (2007).

In order to comply with the notice requirements under MCL 124.419, Williams had to give the authority written notice of her claim within 60 days of the accident. Nothing within the terms of the statute precludes a potential plaintiff from providing notice by giving notice to an agent designated by SMART. Because there was evidence that Williams sent her letter of November 29 to the agent that SMART had instructed her to deal with, the trial court did not err when it declined to grant SMART's motion on the basis that the notice was not sent directly to SMART. In addition, the trial court did not err when it determined that Williams' letter of November 29 gave SMART notice of Williams' claim.

The term "claim" is generally understood to mean "the aggregate of operative facts giving rise to a right enforceable by a court." *Nuculovic v Hill*, 287 Mich App 58, 63; 783 NW2d 124 (2010). For purposes of MCL 124.419, the claim must be premised on an injury to a person or property. *Id.* In her letter of November 29, Williams gave notice that the driver of the bus she was exiting closed the doors on her, trapping her in the doors, and injuring her hand. A governmental agency is liable for bodily injury "resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is the owner . . . ." MCL 691.1405. The phrase "operation of a motor vehicle" requires that "the motor vehicle is being operated *as* a motor vehicle" and refers to "activities that are directly associated with the driving of a motor vehicle." *Chandler v Muskegon Co*, 467 Mich 315, 320-321; 652 NW2d 224 (2002) (emphasis in original). The loading and unloading of passengers is an action within the operation of a bus. *Martin v Rapid Inter-Urban Partnership*, 480 Mich 936; 740 NW2d 657 (2007). Thus, Williams' letter clearly alleged that she had a common carrier-passenger relationship with SMART, see *Dawe v Dr Reuven Bar-Levav & Assoc, PC*, 485 Mich 20, 25-26 n 3; 780 NW2d 272 (2010) (noting that the common carrier-passenger relationship is one that creates a duty to exercise due care), and that the bus' driver negligently caused personal injury to her as she was exiting the bus. See *Case v Consumers Power Co*, 463 Mich 1, 6-7; 615 NW2d 17 (2000) (stating that negligence is the failure to exercise reasonable care). Further, Williams' letter provided SMART with the date and time of the injury, the location of the bus at the time of the injury, the route number of the bus, and the first name of the bus driver. Williams was not required to specifically state that the bus driver breached the duty of ordinary care owed to her as a passenger, which breach resulted in personal injury for which SMART could be liable under MCL 691.1405, in order to notify SMART of her claim. Williams' letter of November 29 was sufficient to apprise SMART of her belief that she had a personal injury claim against SMART.

The trial court did not err in denying SMART's motion for summary disposition.<sup>1</sup>

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Michael J. Kelly

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<sup>1</sup> In light of our decision, it is unnecessary to address whether Collins's January 12 letter also satisfied the statutory notice requirement.