

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH ALEXANDER,

Plaintiff-Appellant,

v

STATE FARM MUTUAL AUTO INSURANCE
COMPANY,

Defendant-Appellee.

UNPUBLISHED

July 7, 2000

No. 219926

Kent Circuit Court

LC No. 96-003649-CK

Before: Jansen, P.J., and Hood and Saad, JJ.

MEMORANDUM.

In this first-party no-fault automobile insurance case, plaintiff appeals as of right from a judgment entered on a jury verdict of no cause of action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, plaintiff asks this Court to revisit the issue of exclusion of polygraph evidence at trial. As noted by defendant, however, this Court is bound by Michigan Supreme Court precedent, *People v Barbara*, 400 Mich 352, 364; 255 NW2d 171 (1977), which established a per se exclusionary rule regarding polygraph evidence at trial. The *Barbara* Court reasoned that the polygraph technique had not received the degree of acceptance or standardization among scientists to allow its admissibility. See *People v Ray*, 431 Mich 260, 265; 430 NW2d 626 (1988). Moreover, we note that in *United States v Scheffer*, 523 US 303; 118 S Ct 1261, 1265-1267; 140 L Ed 2d 413 (1998), the United States Supreme Court held that a per se rule against admission of polygraph evidence in court martial proceedings did not violate the defendant's constitutional right to present a defense. The *Scheffer* Court reaffirmed that "there is simply no consensus that polygraph evidence is reliable." *Id.* The Sixth Circuit Court of Appeals also continues to hold that the results of polygraph examinations are inherently unreliable. See *United States v Thomas*, 167 F3d 299 (CA 6, 1999); *King v Trippett*, 192 F3d 517 (CA 6, 1999). Accordingly, until the United States Supreme Court or the Michigan Supreme Court rule differently, this Court is bound to follow *Barbara* and its per se exclusionary rule.

Affirmed.

/s/ Kathleen Jansen

/s/ Harold Hood

/s/ Henry William Saad