STATE OF MICHIGAN

COURT OF APPEALS

PANDORA COLEMAN,

Plaintiff-Appellant,

v

ACIA,

Defendant-Appellee.

UNPUBLISHED
November 12, 2002

No. 235414
Wayne Circuit Court
LC No. 00-020945-NF

Before: Griffin, P.J., and Gage and Meter, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). Whether a cause of action is barred by the statute of limitations is a question of law that is also reviewed de novo on appeal. *Ins Comm'r v Aageson Thibo Agency*, 226 Mich App 336, 340-341; 573 NW2d 637 (1997). Likewise, statutory interpretation is a question of law which is also reviewed de novo. *Roberts v Mecosta Co General Hosp*, 466 Mich 57, 62; 642 NW2d 663 (2002).

MCL 500.3145(1) provides in part:

> An action for recovery of personal protection insurance benefits . . . for accidental bodily injury may not be commenced later than 1 year after the date of the accident causing the injury unless written notice of injury as provided herein has been given to the insurer within 1 year after the accident . . . . If the notice has been given . . . , the action may be commenced at any time within 1 year after the most recent allowable expense, work loss or survivor's loss has been incurred. However, the claimant may not recover benefits for any portion of the loss incurred more than 1 year before the date on which the action was commenced. The notice of injury required by this subsection may be given to the insurer or any of its authorized agents . . . . The notice shall give the name and address of the claimant and indicate in ordinary language the name of the person injured and the time, place and nature of his injury.

This statute is a statute of limitations, not a notice provision, and suit is barred if the plaintiff does not file a complaint or give the requisite notice within the one-year period. *Davis v Farmers Ins Group,* 86 Mich App 45, 48-49; 272 NW2d 334 (1978). "[S]ubstantial compliance with the written notice provision which does in fact apprise the insurer of the need to investigate and to determine the amount of possible liability of the insurer's fund, is sufficient compliance under § 3145(1)." *Dozier v State Farm Mutual Automobile Ins Co,* 95 Mich App 121, 128; 290 NW2d 408 (1980). However, the notice "must be specific enough to inform the insurer of the nature of the loss. It must give sufficient information that the insurer knows or has reason to know that there has been a compensable loss." *Mousa v State Auto Ins Cos,* 185 Mich App 293, 295; 460 NW2d 310 (1990).

The statute expressly requires written notice to the insurer. It does not matter if the insured provides the written notice herself or if someone else, such as her attorney or her insurance agent, submits it to the company on her behalf. *Walden v Auto Owners Ins Co,* 105 Mich App 528, 533-534; 307 NW2d 367 (1981); *Dozier, supra*. In unusual circumstances, it does not even matter if the written notice is not submitted on behalf of the injured person or the claimant. *Lansing General Hosp, Osteopathic v Gomez,* 114 Mich App 814, 822-823; 319 NW2d 683 (1982). However, verbal notification alone is not sufficient, *Keller v Losinski,* 92 Mich App 468, 471; 285 NW2d 334 (1979), and there are no cases holding that the insurer's own notes based on the claimant's verbal notification is sufficient to constitute "written notice of injury . . . to the insurer" as required by § 3145(1). Because plaintiff only gave defendant verbal notice of the accident, no one forwarded written notice to defendant on her behalf, and plaintiff did not file suit within one year from the date of the accident, the trial court properly concluded that her complaint was time-barred.

Affirmed.

/s/ Richard Allen Griffin
/s/ Hilda R. Gage
/s/ Patrick M. Meter