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no-fault newsline

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

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Supreme Court Reverses *Cameron* and *Liptow*: The One-Year-Back Rule No Longer Trumps Tolling Provisions For Minors, Incompetent People Or State Entities

By Brandy Kuretich

In the much anticipated decision of *Regents of The University of Michigan v Titan*, the Michigan Supreme Court reversed both *Cameron v Auto Club Ins Assoc.* and *Liptow v State Farm Mutual Automobile Ins Co.*, which held that the one-year-back recovery limitation of MCL § 500.3145 was not subject to tolling. The *Regents* Court held that the one-year-back recovery period does not apply to causes of action subject to MCL § 600.5851 (the minority/insanity tolling provision) or MCL § 600.5821 (exempting the state and its subdivisions from statutes of limitations).

In *Regents*, Nicholas Morgan was injured in a motor vehicle accident. He sought personal protection insurance (PIP) benefits through the Assigned Claims Facility which assigned the claim to Titan Insurance Company. Regents of the University of Michigan (a state entity) provided medical treatment to Mr. Morgan for his auto accident related injuries and sought payment from Titan more than a year after the charges were incurred. Titan argued that payments for the billed services were barred by the one-year-back rule of MCL § 500.3145. Regents argued that MCL § 600.5821(4) allowed the state and its political subdivisions to file suit without limitation and superseded MCL § 500.3145. The trial court agreed with Titan and dismissed the lawsuit. The Court of Appeals affirmed in a divided decision relying on *Liptow*.

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Prior case law holding that "one-year-back" meant "one-year-back" and was applicable to all claims no longer stands. The one-year-back rule is now interpreted to be a "limitations" provision and not a "recovery" provision. Therefore, the one-year-back rule no longer trumps the minority/insanity savings provision (MCL § 600.5851(4)) or to causes of action brought by the state and/or its political subdivisions (MCL § 600.5821(4)).

No Fault insurers can expect to see claims that an insured Plaintiff suffered some sort of incompetency which would render the one-year-back rule inapplicable.

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In *Regents*, the Supreme Court held that the issue before the Court was not whether Regents had a right to bring the cause of action. Instead, the issue was whether MCL § 500.3145(1) restricted Regents' recovery to damages incurred within one year before it filed suit. The analysis centered on the "correct" interpretation of the interaction between MCL § 500.3145(1) and MCL § 500.5821(4).

The *Regents* Court found that the approach utilized by the *Cameron* Court was flawed because it read the statutory language in isolation. Instead, the *Regents* Court held the tolling provision of MCL § 600.5851(1) must be read together with the No Fault Act, the statute under which the Plaintiff sought to recover damages. When read together, "the statutes grant infants and incompetent persons one year after their disability is removed to 'bring the action' 'for recovery of personal protection insurance benefits . . . for accidental bodily injury . . . .'" Under this reading, **MCL § 600.5851(1) "supersedes all limitations in MCL § 500.3145(1), including the one-year-back rule's limitation on the period of recovery."**

The Court held that the "action" and "claim" preserved by MCL § 600.5851(1) (the minority/insanity tolling provision) includes the right to file the action and the right to collect damages. The Court held that this reasoning is equally applicable to MCL § 600.5821(4) (exempting the state and its political subdivisions from statutes of limitation) and preserves a Plaintiff's right to bring an action and a Plaintiff's right to recover damages incurred more than one year before suit is filed. **"The one-year-back rule in MCL § 500.3145(1) is inapplicable to such claims."**

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We welcome your questions and comments.

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