

STATE OF MICHIGAN
COURT OF APPEALS

TERRELL MOSS, f/k/a TERRELL HOWARD,

Plaintiff-Appellant,

v

FARMERS INSURANCE EXCHANGE,

Defendant-Appellee.

UNPUBLISHED

October 2, 2003

No. 240390

Wayne Circuit Court

LC No. 01-117132-CZ

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

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

On October 9, 1998, plaintiff was driving his employer's vehicle during the course of his employment when another vehicle hit the rear of his vehicle and then left the scene. The driver of that vehicle was never identified. Plaintiff reported the accident to the police. Plaintiff later developed shoulder problems for which he underwent surgery. At some point after June 2000 plaintiff filed a claim for uninsured motorist benefits with defendant, his insurer. Defendant denied the claim on the ground that it was not filed within thirty days after the accident, as required by the notice provision in the policy issued to plaintiff.

Plaintiff filed a complaint for declaratory relief, alleging that defendant was not prejudiced by the delay in making the claim, and that the notice provision in the policy was ambiguous and contrary to public policy. Defendant moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that the language of the policy was clear and unambiguous, and that plaintiff's failure to comply with the notice provision resulted in prejudice. The trial court found defendant's arguments persuasive and granted the motion.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001). Also, construction and interpretation of the language of an insurance contract is a question of law for the court. *Henderson v State Farm Fire & Casualty Co*, 460 Mich 348, 353; 596 NW2d 190 (1999). An insurance contract should be read as a whole and meaning given to all terms. *Auto-Owners Ins Co v Churchman*, 440 Mich 560, 566; 489 NW2d 431 (1992). An insurance contract is clear and unambiguous if it fairly admits of but one interpretation. *Farm Bureau Mut Ins Co v*

Nikkel, 460 Mich 558, 566; 596 NW2d 915 (1999). An insurance contract is ambiguous if, after reading the entire contract, its language can reasonably be understood in different ways. *Id.* at 566-567. If the language is unambiguous, the trial court must enforce the contract as written. *Nikkel, supra* at 566.

Uninsured motorist coverage is not mandated by statute. Therefore, the scope of such coverage is governed by the language of the policy itself and by contract law. *Stoddard v Citizens Ins Co of America*, 249 Mich App 457, 460; 643 NW2d 265 (2002). The policy issued to plaintiff states that a person claiming uninsured benefits must notify defendant “within 30 days if a hit and run motorist is involved and an uninsured motorist claim is to be filed.” The language of defendant’s policy clearly requires that a claim for uninsured motorist benefits be filed within thirty days of the accident. We find that this language is clear and unambiguous. Because it is undisputed that plaintiff did not notify defendant of the occurrence of the accident and his claim for uninsured benefits until nearly two years after the accident, the trial court properly granted defendant’s motion for summary disposition. *Henderson, supra* at 353.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Kurtis T. Wilder