

STATE OF MICHIGAN  
COURT OF APPEALS

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UNITED FARM FAMILY MUTUAL  
INSURANCE COMPANY,

UNPUBLISHED  
January 15, 2013

Plaintiff/Counter-Defendant-  
Appellee,

v

No. 308737  
Monroe Circuit Court  
LC No. 11-030540-CZ

DAVID BRUSS and NICKOLAS BRUSS,

Defendants/Counter-Plaintiffs-  
Appellants.

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Before: TALBOT, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

In this declaratory judgment action involving first-party benefits under the Michigan no-fault act, defendants/counter-plaintiffs (“defendants”), David Bruss and Nickolas Bruss, appeal by right the trial court’s order granting summary disposition to plaintiff/counter-defendant (“plaintiff”), United Farm Family Mutual Insurance Company. We affirm.

Defendants argue the trial court erred when it concluded that there were no genuine issues of material fact precluding summary disposition. We disagree.

An appellate court “reviews the grant or denial of summary disposition de novo to determine if the moving party is entitled to judgment as a matter of law.” *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties . . . in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. [*Id.* at 120 (citations omitted)].

“Issues of statutory interpretation are questions of law that this Court reviews de novo.” *Douglas v Allstate Ins Co*, 492 Mich 241, 256; 821 NW2d 472 (2012). .

The basis for plaintiff's obligation to pay defendants no-fault benefits in this case is MCL 500.3163, which states, in relevant part:

(1) An insurer authorized to transact automobile liability insurance and personal and property protection insurance in this state *shall file and maintain a written certification that any accidental bodily injury or property damage occurring in this state arising from the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle by an out-of-state resident who is insured under its automobile liability insurance policies*, is subject to the personal and property protection insurance system under this act.

(2) A nonadmitted insurer may voluntarily file the certification described in subsection (1). [Emphasis added.]

To obtain no-fault benefits under this provision, a nonresident must show, among other things, certification of the insurance carrier in Michigan. *Transport Ins Co v Home Ins Co*, 134 Mich App 645, 651; 352 NW2d 701 (1984). The trial court granted summary disposition in favor of plaintiff on the ground that plaintiff did not fall within the purview of this provision because it had not filed a written certification with the state of Michigan, as required by the statute. Defendants argue representations by plaintiff's agents to third parties that it filed the requisite certificate create a genuine issue of material fact, which could cause reasonable jurors to disagree regarding whether plaintiff was obligated to pay defendants no-fault benefits under MCL 500.3163. We disagree.

According to the plain meaning of MCL 500.3163, the only fact relevant to whether plaintiff is a certified insurance carrier under the provision is whether it filed the requisite certificate with the state of Michigan. See MCL 500.3163(1) ("An insurer . . . shall file and maintain a written certification . . ."); *Douglas*, 492 Mich at 256 ("If the statutory language is unambiguous, the Legislature's intent is clear and judicial construction is neither necessary nor permitted.") (internal citations omitted). It is undisputed that plaintiff, in fact, did not file a written certification with the state of Michigan.<sup>1</sup> Defendants provide no support for their claim that admissions and representations by an insurance company's agents after a claim arose satisfy the certification requirement under MCL 500.3163. Therefore, defendants are precluded, as a matter of law, from obtaining Michigan no-fault benefits from plaintiff under MCL 500.3163.

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<sup>1</sup> Plaintiff attached the list of certified insurance carriers to its motion for summary disposition, and defendants did not dispute the authenticity of the document or plaintiff's absence from the list.

The trial court properly granted summary disposition in favor of plaintiff. Having resolved this issue, our review of defendants' other claims of error is unnecessary.

Affirmed.

/s/ Michael J. Talbot

/s/ Kurtis T. Wilder

/s/ Cynthia Diane Stephens