



## Michigan Supreme Court Holds No-Fault Damages Limitation Does Not Apply to State Actors or Minors

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In the much-anticipated decision in *Regents of the University of Michigan v Titan Insurance Company* (\_\_ Mich \_\_)(July 31, 2010)(No 136905), the Michigan Supreme Court overturned *Liptow v State Farm* and *Cameron v ACIA*, and held that the "one-year-back rule" of the Michigan No Fault Act is trumped by the tolling provisions of MCL 600.5851 and 600.5821.

MCL 500.3145 contains a statute of limitations for claiming No Fault benefits by which suit for such benefits must be filed within one year of the date of the accident or, if benefits have been paid, within one year after the most recent expense or benefit has been incurred. The No Fault Act also contains what is commonly known as the "one-year-back rule," pursuant to which a plaintiff cannot recover expenses incurred more than one year before suit is filed.

MCL 600.5851 provides a tolling mechanism for minors and insane persons, allowing them to sue (whether for No Fault benefits or otherwise) within one year after the "disability" is removed, even though the statute of limitations has already run. MCL 600.5821 provides that statutes of limitations do not apply to the State of Michigan, its officers, or any political subdivision when it/they are seeking recovery of the costs incurred for treatment to persons in public hospitals, homes, schools, or other institutions. Pursuant to MCL 600.5821, the State, etc., may bring suit for these costs at any time.

In *Regents v Titan*, the University of Michigan Health System was seeking recovery from a No Fault insurer of expenses incurred for medical treatment of defendant's insured six years earlier. Defendant argued that the one-year-back rule operated to effectively bar recovery, since all of the expenses had been incurred more than one year before suit was filed. The Supreme Court disagreed, holding that MCL 600.5821 applies not only to the No Fault statute of limitations, but also to the one-year-back rule of §3145. Similarly - even though the *Regents* case did not involve a claim by a child - the Court held that

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the minority/insanity tolling provision also trumps the one-year-back rule, so that minors and insane persons may bring a No Fault claim at any time up to one year after their disability is removed.

This case is significant for being the first weakening of the one-year back barrier. The case had previously been presented to the Supreme Court by Application, and the Court declined to hear the case. Following the change in the composition of the Court after the election of 2008, the Court granted leave to appeal and reversed the lower court decision.

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