

Court of Appeals, State of Michigan

ORDER

Julie Anne Kamicka v State Farm Mutual Automobile Insurance Co

Docket No. 297032

LC No. 08-001806-NF

Christopher M. Murray
Presiding Judge

E. Thomas Fitzgerald

Amy Ronayne Krause
Judges

The Court orders that plaintiff's motion to vacate order is GRANTED.

"[A] no-fault insurer is liable to pay benefits only to the extent that the claimed benefits are causally connected to the accidental bodily injury arising out of an automobile accident." *Griffith v State Farm Mut Auto Ins Co*, 472 Mich 521, 531; 697 NW2d 895 (2005). If the insurer is liable to pay PIP benefits, it is responsible for all reasonable and necessary medical and rehabilitation expenses. MCL 500.3107(1)(a). For three years after the date of the accident, the insurer must also pay the insured for wage loss from work the injured person would have performed and replacement services for ordinary and necessary services that the injured person would otherwise have performed. MCL 500.3107(1)(b)-(c). "Whether PIP expenses are reasonable and necessary is generally considered a question of fact for the jury." *Rose v State Farm Mut Auto Ins Co*, 274 Mich App 291, 298; 732 NW2d 160 (2006).

We hold that the trial court's order granting defendant summary disposition must be vacated. First, because the trial court's order granting summary disposition in plaintiff's separate third-party case was reversed and remanded on appeal, see *Kamicka v Eagling*, unpublished memorandum opinion of the Court of Appeals, decided August 12, 2010 (Dkt. No. 291154), and that ruling was in part a basis for the decision in this case, the trial court must reconsider its decision. Second, the parties agree that plaintiff's PIP claims must be considered under the correct standard, see *Griffith*, 472 Mich at 530-531, so a remand is also necessary because the trial court failed to address plaintiff's claims for PIP benefits.

The trial court's February 12, 2010 opinion granting defendant's motion for summary disposition and its March 8, 2010 Order of Judgment is VACATED and this case is REMANDED for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JUN 28 2011

Date


Chief Clerk