

STATE OF MICHIGAN
COURT OF APPEALS

SCOTTIE D. WATSON,

Plaintiff-Appellant,

v

WASTE MANAGEMENT OF MICHIGAN, INC.,
and PACIFIC EMPLOYERS INSURANCE
COMPANY,

Defendants-Appellees.

UNPUBLISHED

January 4, 2005

No. 250070

Wayne Circuit Court

LC No. 02-232029-NF

Before: Murphy, P.J., and White and Kelly, JJ.

WHITE, J. (*dissenting*).

I respectfully dissent. It is undisputed that Gallagher Bassett Services received notice on the day of the accident that plaintiff had suffered a foot injury when the front tire of a truck ran over his foot. The auto insurance policy issued by defendant Pacific to defendant Waste Management contains an endorsement that states that there is a one million dollar deductible for each accident, that Gallagher Bassett is the “Claims Service Organization,” that the deductible applies to all losses under the PIP (no-fault) coverage, as well as other coverages, that Waste Management will pay all sums it becomes legally obligated to pay within the deductible per accident, and that

You have entered into an agreement with the claim service organization shown in the Schedule (the Claim Service Organization), whereunder the Claim Service Organization shall provide investigation, administration, adjustment, and settlement services, and shall provide for the defense of all claims or “suits” arising under this policy. Accordingly, you agree with us that we shall not have any duty to defend any such “suit”, or to pay with respect to any claim or “suit” any ALAE.

Under these circumstances, I conclude that plaintiff correctly contends that *State Farm Mut Auto Ins Co v Ins Co of North America*, 166 Mich App 133; 420 NW2d 120 (1988), and *Johnson v State Farm Mut Auto Ins Co*, 183 Mich App 752; 455 NW2d 420 (1990), establish that the notice to Gallagher Bassett was sufficient. Gallagher Bassett was charged with providing all investigation, administration, adjustment, and settlement services, as well as with

defending the claim. Notice to it that plaintiff suffered a foot injury when a truck tire ran over his foot was sufficient to satisfy the notice requirements of MCL 500.3145(1). I would reverse.

/s/ Helene N. White