

no-fault newslines

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

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Affiliated Medical v Liberty Mutual: no-fault provider suits continue to cause confusion with respect to District vs. Circuit Court jurisdiction.

By Drew W. Broaddus

MCL 600.8301(1) states that, in our state court system, District Courts have “exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00.” For suits where the amount in controversy exceeds \$25,000.00, however, jurisdiction lies exclusively in the Circuit Courts. MCL 600.601(1); MCL 600.605.

Despite this bright-line rule, confusion often arises in first-party no-fault litigation, in part because care providers have the ability to file independent suits.¹ In many cases, these suits are for a single bill that falls well below the \$25,000 threshold for being in Circuit Court. The Court of Appeals sought to eliminate some of the confusion in *Moody v Home Owners Ins Co*, 304 Mich App 415 (2014)² when it held that (1) courts should look beyond the pleadings to determine the amount in controversy, (2) when the claims of providers and the claims of the injured person are consolidated, it becomes a single controversy for jurisdictional purposes (and the case must be sent to Circuit Court if the aggregate amount sought exceeds \$25,000), and (3) a District Court cannot cure this type of jurisdictional defect by simply entering a judgment for less than \$25,000.

The Court of Appeals was called upon to apply some of these principles in *Affiliated Medical of Dearborn v Liberty Mutual Ins*, unpublished opinion per curiam of the Court of Appeals, issued December 23, 2014 (Docket No. 314179). In *Affiliated Medical*, a care provider sued for PIP benefits in Wayne County Circuit Court. Its complaint included a boilerplate statement that “the amount in controversy exceeded \$25,000, exclusive of costs, interest, and attorney fees.” *Id.* at 2. Liberty Mutual did not timely answer the complaint and the provider eventually obtained a default judgment. In its motion for entry of default judgment, the provider sought “\$20,500 for services rendered, exclusive of costs, interest, and attorney fees.” *Id.* The provider did, however, request \$10,000 in “attorney fees, interest and costs.” *Id.*

Liberty Mutual timely moved to set aside the default judgment, but the Circuit Court found that the insurer had failed to show good cause. The insurer appealed that ruling unsuccessfully, but then argued that the default judgment should be set aside because the Circuit Court lacked subject-matter jurisdiction. The Court of Appeals initially declined to consider this argument, but the Supreme Court directed it to do so. *Affiliated Medical*, 496 Mich 851 (2014).

SECRET WARDLE NOTES:

Although Liberty Mutual did not challenge jurisdiction in the circuit court, jurisdictional defects may be raised at any time, even for the first time on appeal. *Affiliated Medical*, unpub op at 2.

To a large extent, the outcome in *Affiliated Medical* was directed by the *Moody* panel’s holding that the “amount in controversy” analysis is not limited to the pleadings. As Judge O’Connell’s dissent in *Affiliated Medical* noted, there is authority to the contrary (i.e., that *only* the pleadings should be considered).

The Michigan Supreme Court has granted leave in *Moody*; a reversal could vindicate Judge O’Connell’s dissent in this case.

¹See *No-Fault Newslines*, December 12, 2014, “Court of Appeals clarifies that health care providers do have standing to sue no-fault carriers directly for PIP benefits,” by Drew Broaddus.

²Leave to appeal granted, 497 Mich 866 (2014).

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On remand from the Supreme Court, the Court of Appeals considered the jurisdictional argument on its merits for the first time. In a 2 - 1 decision, the Court of Appeals vacated the default judgment, finding that the Circuit Court had no subject matter jurisdiction. The majority explained:

Plaintiff's complaint alleged that the amount in controversy exceeded \$25,000, exclusive of costs, interest, and attorney fees. But a trial court need not limit its jurisdictional query to the amount in controversy alleged in the pleadings. ... If the plaintiff is aware that the amount in controversy is not within the trial court's jurisdictional limits, the plaintiff cannot confer jurisdiction on the court by pleading to the contrary. Once the trial court has evidence that the amount in controversy is not within its jurisdictional limits, it can do nothing other than dismiss the case under MCR 2.116(C)(4), or transfer the case to a court with jurisdiction under MCR 2.227(A)....

Despite the allegations in its complaint, plaintiff admitted in its motion for entry of a default judgment that defendant owed only \$20,500 for services rendered, exclusive of costs, interest, and attorney fees. Although plaintiff also requested in excess of \$10,000 for attorney fees, interest, and costs, as a general rule, neither costs, attorney fees nor interest is considered in determining the jurisdictional amount....

Thus, it was apparent from the motion for entry of a default judgment that the circuit court lacked subject-matter jurisdiction because the amount in controversy was less than \$25,000 and, therefore, the action was within the exclusive jurisdiction of the district court. When a court lacks subject-matter jurisdiction, it must dismiss the case for want of jurisdiction or transfer it to a court that would have jurisdiction; any other action taken by the court is void.... *Affiliated Medical*, unpub op at 2-3 (citations and quotations omitted).

Judges Stephen Borrello and Elizabeth Gleicher comprised the majority. Judge Peter O'Connell dissented. Judge O'Connell looked to pre-*Moody* decisions holding that jurisdiction should be determined *only* by reference to the complaint. Judge O'Connell also cited authority for the proposition that the attorney fees requested by *Affiliated Medical* should have been considered in determining the amount in controversy.

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