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## ***A Stitch in Time: Supreme Court Softens the One-Year Notice Rule in PIP Cases***

*By Tom Sinas  
Sinus Dramis Law Firm (Grand Rapids)*

There's nothing to rattle a lawyer's nerves like an impending statute of limitations. And there aren't many statutes of limitations that come sooner than one year. So it's no wonder that lawyers who handle no-fault cases frequently find themselves a bit jittery.

No-fault PIP claims are subject to two rules of one year. The first is often called the one-year notice rule. This rule requires that notice of a PIP claim be provided to an insurer within one year of the accident. The second is often called the one-year back rule. This rule says that a claimant cannot recover benefits beyond one year from the date of filing a lawsuit. See MCL 500.3145(1).

Of the two rules, it's the one-year notice rule that can be most terrifying. That's because failure to provide timely notice permanently bars the claimant from receiving benefits. In other words, you haven't lost just one year of benefits, but, rather a lifetime's worth of benefits.

But for years, many practitioners believed that No-Fault Act provided an important exception to the one-year notice rule—an exception that applied in cases where an insurer paid benefits even though the claimant did not provide timely notice. This belief came from the language of Section 3145(1):

*“An action for [PIP benefits] may not be commenced later than 1 year after the date of the accident causing the injury unless written notice of injury as provided herein has been given to the insurer within 1 year after the accident or unless the insurer has previously made a payment of personal protection insurance benefits for the injury.”*

On March 21, 2016, believers in the so-called “*payment*” exception were vindicated when Michigan Supreme rendered its decision in *Jesperson v. ACIA*, \_\_\_ Mich. \_\_\_ (2016). Here, the plaintiff was injured in a car accident on May 12, 2009. Yet the accident was not reported to ACIA until June 2, 2010, more than one year later. Nevertheless, on July 23, 2010, ACIA began paying PIP benefits.

ACIA then terminated benefits, and the plaintiff sued. The trial court granted ACIA's motion for summary disposition, and the court of appeals affirmed. The court of appeals held that something — either notice or payment of PIP benefits—had to happen within the first year. Since neither occurred, the court of appeals held the claim was barred.

A unanimous Michigan Supreme Court disagreed. The court held that ACIA's payment of benefits was an exception to the one-year notice rule. As the court said: "*We hold that the first sentence of MCL 500.3145(1) allows for an action for no fault benefits to be filed more than one year after the date of the accident causing the injury if the insurer has either received notice of the injury within one year of the accident or has made a payment of no-fault benefits for the injury at any time before the action is commenced.*"

So there you have it, practitioners. Take a deep breath. Sometimes, it's not as bad as you think.