

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**
KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
PHONE: (302) 735-3910

CHARLES W. WELCH, III
JUDGE

January 24, 2017

Ms. Nina Shahin
103 Shinnecock Road
Dover, DE 19904

RE: Nina Shahin v. Dover Police Officer Dale Boney, Badge #10216, and
State Farm Mutual Automobile Insurance Company
C.A. No.: CPU5-14-000682

Decision on Plaintiff's Motion for Summary Judgment Against State Farm
Mutual Automobile Insurance Company

Dear Ms. Shahin:

The Court has reviewed your motion for summary judgment in the above-referenced matter against State Farm Mutual Automobile Insurance Company ("State Farm"). In your motion, you allege that State Farm failed to file a timely response to your complaint once it had been served. As such, you contend that you are entitled to a judgment against it. Please be advised that your motion for summary judgment is denied.

The reason for the denial of your motion for summary judgment is pretty much explained in the Delaware Supreme Court decision of *Shipley v. State Farm Mutual Automobile Insurance Company*, 900 A.2d 101 (Del. 2006) (a copy of which is enclosed for your convenience). State Farm is a foreign insurer and, as such, must be served pursuant to Section 524(c) of Title 18 of the Delaware Code. That provision of the

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Delaware Code provides that service of process against a foreign insurer shall only be made by service thereof upon the Delaware Insurance Commissioner. Court records indicate that your service of process to commence this case was made on State Farm by leaving a copy of the summons and complaint with a local agent for State Farm.

Therefore, service of process was not properly made. The improper service of process was made moot, however, when State Farm entered its appearance through its attorney on or about December 3, 2014, and subsequently filed an Answer. At that time, the personal jurisdiction of State Farm was conferred upon the Court for this case.

IT IS SO ORDERED.

Sincerely,



Charles W. Welch, III

CWW:mek
Enclosure

pc: Reneta L. Green-Streett, Esq. (w/enc.)
Daniel A. Griffith, Esq. (w/enc.)

900 A.2d 101 (Table)
Unpublished Disposition
(The decision of the Court is referenced in the
Atlantic Reporter in a "Table of Decisions Without
Published Opinions.")
Supreme Court of Delaware.

Rochelle D. SHIPLEY, Plaintiff Below-Appellant,
v.
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, Defendant
Below-Appellee.

No. 450, 2005.
|
Submitted: Feb. 17, 2006.
|
Decided: April 24, 2006.

Court Below-Superior Court of the State of Delaware, in
and for New Castle County, C.A. No. 04C-09-092.

Before STEELE, Chief Justice, JACOBS, and RIDGELY,
Justices.

ORDER

RIDGELY, Justice.

*1 This 24th day of April 2006, upon consideration of the
parties' briefs and the record on appeal, it appears to the
Court that:

(1) The plaintiff-appellant, Rochelle Shipley, filed this
appeal from the Superior Court's dismissal of her

Footnotes

¹ The statute provides, "Service of such process against a foreign or alien insurer shall be made *only* by service thereof upon the Commissioner." 18 Del. C. § 524(c) (1999) (emphasis added).

² Superior Court Civil Rule 4(j) provides, "If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion."

complaint for failure to properly serve the defendant-appellee, State Farm Mutual Automobile Insurance Company. We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Shipley filed her complaint in Superior Court on September 10, 2004 seeking uninsured motorist benefits for injuries she sustained in an automobile accident on September 12, 2001. The complaint purportedly was served on State Farm on March 10, 2005 when the Sheriff served a copy of the complaint on a receptionist at a local office of a State Farm agent. State Farm filed a motion to dismiss Shipley's complaint on the grounds that service of the complaint was not properly perfected under 18 Del. C. § 524(c) ¹ and because service of the complaint was untimely under Superior Court Civil Rule 4(j).² After a hearing, the Superior Court granted State Farm's motion to dismiss.

(3) On appeal, Shipley argues that service of the complaint was sufficient because the State Farm receptionist was an "agent" for service under Superior Court Civil Rule 4(d)(3). We disagree. Section 524(c) of Title 18 is clear that service on a foreign insurer, such as State Farm, may only be perfected by serving the Insurance Commissioner. Shipley did not show good cause why service was not perfected as required by law. Accordingly, the Superior Court did not err in dismissing her complaint for insufficient service.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

All Citations

900 A.2d 101 (Table), 2006 WL 1096790