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Court of Appeals of Michigan.  
William L. FISHER, Plaintiff-Appellant,  
v.

Karen LOWE, Larry Moffet and State Farm Mutual  
Automobile Insurance Company,  
Defendants-Appellees.

**Docket No. 60732.**

Submitted Nov. 3, 1982.

Decided Jan. 10, 1983.

Released for Publications May 6, 1983.

A wayward Chevy struck a tree Whose owner sued  
defendants three. He sued car's owner, driver too,  
And insurer for what was due For his oak tree that  
now may bear A lasting need for tender care.

The Oakland County Circuit Court, John N. O'Brien,  
J., set forth The judgment that defendants sought And  
quickly an appeal was brought.

Court of Appeals, J.H. Gillis, J., Gave thought and  
then had this to say: 1) There is no liability Since No-  
Fault grants immunity; 2) No jurisdiction can be  
found Where process service is unsound; And thus  
the judgment, as it's termed, Is due to be, and is,

Affirmed.

West Headnotes

**[1] Automobiles**  **251.13**

[48Ak251.13 Most Cited Cases](#)

Defendant's Chevy struck a tree-- There was no liab-  
ility; The No-Fault Act comes into play As owner  
and the driver say;

Barred by the Act's immunity, No suit in tort will aid  
the tree; Although the oak's in disarray, No court can  
make defendants pay, M.C.L.A. § 500.3135.

**[2] Process**  **4**

[313k4 Most Cited Cases](#)

No jurisdiction could be found Where process service  
was unsound; In personam jurisdiction Was not even  
legal fiction Where plaintiff failed to well comply

With rules of court that did apply. GCR 1963, 105.4.  
**\*418 \*\*67** William L. Fisher, Troy, in pro. per.

Romain, Donofrio & Kuck, P.C. by Ernst W. Kuck,  
Southfield, for defendants-appellees.

Before BRONSON, P.J., and V.J. BRENNAN and  
J.H. GILLIS, JJ.

J.H. GILLIS, Judge.

**\*419 [1][2]** We thought that we would never see

A suit to compensate a tree.

A suit whose claim in tort is prest

Upon a mangled tree's behest;

A tree whose battered trunk was prest

Against a Chevy's crumpled crest;

A tree that faces each new day

With bark and limb in disarray;

A tree that may forever bear

A lasting need for tender care.

Flora lovers though we three,

We must uphold the court's decree.

Affirmed. [\[FN1\]](#)

[\[FN1\]](#). Plaintiff commenced this action in tort  
against defendants Lowe and Moffet for  
damage to his "beautiful oak tree" caused  
when defendant Lowe struck it while operat-  
ing defendant Moffet's automobile. The tri-  
al court granted summary judgment in favor  
of defendants pursuant to GCR 1963,  
117.2(1). In addition, the trial court denied  
plaintiff's request to enter a default judgment  
against the insurer of the automobile, de-  
fendant State Farm Mutual Automobile In-  
surance Company. Plaintiff appeals as of

right.

The trial court did not err in granting summary judgment in favor of defendants Lowe and Moffet. Defendants were immune from tort liability for damage to the tree pursuant to § 3135 of the no-fault insurance act. [M.C.L. § 500.3135](#); M.S.A. § 24.13135.

The trial court did not err in refusing to enter a default judgment against State Farm.

Since it is undisputed that plaintiff did not serve process upon State Farm in accordance with the court rules, the court did not obtain personal jurisdiction over the insurer. GCR 1963, 105.4.

122 Mich.App. 418, 333 N.W.2d 67

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