

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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AUREL RAMO,

Plaintiff-Appellee,

v

PROTECTIVE INSURANCE COMPANY,

Defendant,

and

REGENTS OF THE UNIVERSITY OF  
MICHIGAN,

Appellant.

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UNPUBLISHED

April 23, 2020

No. 347296; 347297<sup>1</sup>

Wayne Circuit Court

LC No. 17-000918-NF

Before: M. J. KELLY, P.J., and K. F. KELLY and SERVITTO, JJ.

PER CURIAM.

In docket no. 347296, nonparty appellant, Regents of the University of Michigan, appeals by leave granted<sup>2</sup> the trial court’s order granting plaintiff’s motion to enforce a charging lien and compel nonparty, University of Michigan<sup>3</sup>, to remit attorney fees to plaintiff’s counsel, and the trial court’s order denying U of M’s motion for relief from judgment and/or stay enforcement of

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<sup>1</sup> On March 12, 2019, this Court entered an order consolidating these two appeals. *Ramo v Protective Ins Co*, unpublished order of the Court of Appeals, entered March 12, 2019 (Docket No. 347296).

<sup>2</sup> On March 12, 2019, this Court entered an order granting appellant’s application for leave to appeal. *Ramo v Protective Ins Co*, unpublished order of the Court of Appeals, entered March 12, 2019 (Docket No. 347296).

<sup>3</sup> Regents of the University of Michigan and University of Michigan will be collectively referred to as “U of M.”

judgment pending interlocutory appeal. In docket no 347297, U of M appeals as of right the same orders. We vacate the trial court's orders.

The underlying facts are not largely in dispute. Plaintiff was injured in an automobile accident and was treated for the injuries he sustained in the accident by a number of medical providers, including U of M. Plaintiff sued his no-fault insurer, Protective Insurance Company ("Protective"), for no-fault benefits shortly after the accident. Protective apparently paid the bills for services submitted by U of M within a short time after the claims for the bills were submitted. Plaintiff asserts that U of M received payment for its services because of the efforts of plaintiff's counsel. Accordingly, plaintiff argued in the trial court that his counsel was entitled to  $\frac{1}{3}$  of the amount recovered for U of M. The court agreed and ordered U of M to remit attorney fees in the amount of \$14,708.08 to plaintiff's attorney. These appeals followed.

On appeal, U of M first argues that the circuit court lacked jurisdiction to enter orders affecting it because the Court of Claims has exclusive jurisdiction over claims of monetary relief against appellant. We agree.

Whether a court has subject-matter jurisdiction is a question of law that this Court reviews de novo. *Clohset v No Name Corp*, 302 Mich App 550, 559; 840 NW2d 375 (2013). "Questions of statutory interpretation are also reviewed de novo." *Gladych v New Family Homes, Inc*, 468 Mich 594, 597; 664 NW2d 705 (2003).

"When interpreting statutes, our obligation is to discern and give effect to the Legislature's intent as expressed in the statutory language." *Id.* "If the language is unambiguous, 'we presume that the Legislature intended the meaning clearly expressed—no further judicial construction is required or permitted, and the statute must be enforced as written.'" *Id.*, quoting *DiBenedetto v West Shore Hosp*, 461 Mich 394, 402; 605 NW2d 300 (2000). "Statutes sharing subject matter or a common purpose are *in pari materia* and must be read together as a whole." *Prime Time Int'l Distrib, Inc v Dep't of Treasury*, 322 Mich App 46, 51; 910 NW2d 683 (2017) (quotation marks and citation omitted).

"Circuit courts are courts of general jurisdiction that derive their power from the Michigan Constitution." *Id.* Specifically, "[t]he circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; . . . and jurisdiction of other cases and matters as provided by rules of the supreme court." Const 1963, art 6, § 13.

The Revised Judicature Act, MCL 600.101 *et seq.*, also provides:

Circuit courts have original jurisdiction to hear and determine all civil claims and remedies except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state. [MCL 600.605]

"Accordingly, the circuit court is presumed to have subject-matter jurisdiction over a civil action unless Michigan's Constitution or a statute expressly prohibits it from exercising jurisdiction or gives to another court exclusive jurisdiction over the subject matter of the suit." *Prime Time Int'l Distrib, Inc*, 322 Mich App at 52 (quotation marks and citation omitted). If this Court must

examine certain statutory language to determine whether the Legislature intended to deprive the circuit court of jurisdiction, “[t]he language must leave no doubt that the Legislature intended to deprive the circuit court of jurisdiction of a particular subject matter.” *Id.*, quoting *Detroit Auto Inter-Ins Exch v Maurizio*, 129 Mich App 166, 175; 341 NW2d 262 (1983).

Relevant to the instant matter, “[a]n exception to the general jurisdiction of the circuit court exists when the Court of Claims is given exclusive jurisdiction.” *Prime Time Int’l Distrib, Inc*, 322 Mich App at 52-53. The Legislature created the Court of Claims, and “[t]he jurisdiction of the Court of Claims is subject to Michigan statutory law, and therefore the Court of Claims does not have extensive and inherent powers akin to those of a constitutional court of general jurisdiction.” *Id.* (quotation marks and citation omitted). The Court of Claims Act provides, in pertinent part:

(1) Except as provided in sections 6421 and 6440,<sup>4</sup> the jurisdiction of the court of claims, as conferred upon it by this chapter, is exclusive . . . . Except as otherwise provided in this section, the court has the following power and jurisdiction:

(a) To hear and determine any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding another law that confers jurisdiction of the case in the circuit court. [MCL 600.6419.]

Plaintiff’s claim is essentially one for monetary relief. Plaintiff filed a motion to enforce a charging lien and compel a nonparty, U of M, to remit attorney fees to his counsel. Our Supreme Court long ago determined that circuit courts do not have jurisdiction to entertain claims against the governing body of the University of Michigan<sup>4</sup> because such jurisdiction is vested by statute in the Court of Claims. See *Fox v Bd of Regents of Univ of Michigan*, 375 Mich 238, 241; 134 NW2d 146 (1965). Therefore, the Court of Claims had exclusive jurisdiction over plaintiff’s demand for attorney fees from U of M and the circuit court erred when it entered the orders that affected U of M’s rights in this case.

Plaintiff attempts to avoid a determination that the Court of Claims had exclusive jurisdiction in this matter by relying on *Attica Hydraulic Exch v Seslar*, 264 Mich App 577; 691 NW2d 802 (2004), and MCL 500.3112. *Attica Hydraulic Exch* was decided in 2004, which was before the Court of Claims Act was amended. The amended Court of Claims Act vested the Court of Claims with exclusive jurisdiction for claims against a state agency involving a demand for

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<sup>4</sup> Plaintiff argues that “Michigan Medicine” rather than appellant was the entity it attempted to collect attorney fees from, and that “Michigan Medicine” is not a state agency. First, this argument was not raised in the trial court, and thus, will not be considered on appeal. *Bonkowski v Allstate Ins Co*, 281 Mich App 154, 170; 761 NW2d 784 (2008) (“This Court need not address issues first raised on appeal.”). Second, this argument fails to account for the fact that plaintiff named the “University of Michigan” on its the motion to enforce charging lien and compel nonparty, University of Michigan, to remit attorney fees, and that the court’s order ordered the “University of Michigan” to remit attorney fees to the firm. Thus, plaintiff’s argument lacks merit.

monetary relief. MCL 600.6419. The prior Court of Claims Act did not contain the current language providing the Court of Claims with jurisdiction over “or any demand for monetary, equitable, or declaratory relief . . .” MCL 600.6419(1)(a). An attorney fee award is a demand for monetary relief and is thus now subject to the exclusive jurisdiction of the Court of Claims.

Plaintiff also cannot avoid the exclusivity of the Court of Claims’ jurisdiction by relying on MCL 500.3112. MCL 500.3112 provides, in pertinent part: “If there is doubt about the proper person to receive the benefits or the proper apportionment among the persons entitled to the benefits, the insurer, the claimant, or any other interested person may apply to the circuit court for an appropriate order.” Plaintiff argues that this dispute involves the apportionment of benefits among persons and that plaintiff must apply to the circuit court for an order regarding the correct apportionment of benefits. This argument fails to account for the Supreme Court’s order in *Miller v Citizens Ins Co*, 490 Mich 905 (2011), wherein the Court stated that MCL 500.3112, “which permits equitable apportionment of personal protection insurance benefits among payees, does not encompass an award of attorney fees to an insured’s counsel.” Therefore, plaintiff has failed to demonstrate that the Court of Claims lacks exclusive jurisdiction for a demand for monetary relief against appellant.

In addition to lacking subject matter jurisdiction over claims against appellant, the circuit court also lacked the authority to enter orders and judgments affecting appellant’s rights because appellant was not a party in this case. “Michigan courts have consistently recognized that [a] court may not make an adjudication affecting the rights of a person or entity not a party to the case.” *Shouneyia v Shouneyia*, 291 Mich App 318, 323; 807 NW2d 48 (2011) (quotation marks, brackets, and citation omitted); see also *Spurling v Battista*, 76 Mich App 350, 353; 256 NW2d 788 (1977) (concluding that “the trial court did not have the power to compel [a law firm] to pay witness fees” when the law firm “was not a party to this action”). Thus, even if we were to conclude that the circuit court had jurisdiction in this case, it nonetheless could not have entered the order ordering appellant to remit attorney fees to plaintiff’s counsel because appellant was not a party in this matter.

Given our resolution on the jurisdictional issue, we need not address appellant’s other issues on appeal.

Vacated.

/s/ Kirsten Frank Kelly  
/s/ Deborah A. Servitto

M. J. KELLY, P.J., did not participate because of his assignment to the Michigan Court of Claims.