

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

July 27, 2000

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-0547-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**LA RAE SCHULZ, TODD SCHULZ, AND MERCY CARE  
A/K/A MERIDIAN RESOURCE CORP.,**

**PLAINTIFFS-APPELLANTS,**

**v.**

**LEADER NATIONAL INSURANCE CORPORATION, A  
FOREIGN INSURANCE CORPORATION,**

**DEFENDANT-RESPONDENT.**

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APPEAL from a judgment of the circuit court for Jefferson County:  
WILLIAM F. HUE, Judge. *Affirmed.*

Before Eich, Vergeront and Roggensack, JJ.

¶1 PER CURIAM. La Rae Schulz, Todd Schulz and Mercy Care (the Schulzes) appeal from a summary judgment order dismissing their personal injury lawsuit against Leader National Insurance Corporation. The trial court ruled that

it lacked personal jurisdiction over their suit because they had failed to serve Leader National with a summons and complaint within the statutory period. The Schulzes contend that service was timely because it was completed within ninety days after they filed an amended complaint. We reject their contention and affirm the dismissal of their suit.

¶2 The Schulzes were injured as the result of an automobile accident on June 9, 1996. WISCONSIN STAT. § 893.54(1) (1997-98)<sup>1</sup> requires that personal injury actions must be commenced within three years of the injury. Thus, the parties agree that the statute of limitations for the Schulzes' claims expired on June 8, 1999.

¶3 The Schulzes filed a summons and complaint in the trial court on June 3, 1999, but failed to serve it upon Leader National. They filed an amended summons and complaint on September 8, 1999, and served Leader National with it no earlier than October 7, 1999.

¶4 WISCONSIN STAT. § 801.02(1) provides:

A civil action in which a personal judgment is sought is commenced as to any defendant when a summons and a complaint naming the person as defendant are filed with the court, provided service of an authenticated copy of the summons and of the complaint is made upon the defendant under this chapter within 90 days after filing.

Without timely service, the court lacks personal jurisdiction. *See* WIS. STAT. § 801.04(2); *American Family Mut. Ins. Co. v. Royal Ins. Co. of Am.*, 167 Wis. 2d 524, 533-34, 481 N.W.2d 629 (1992). Thus, in order for the summons and

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1997-98 version, unless otherwise noted. This is an expedited appeal under WIS. STAT. RULE 809.17.

complaint which were filed on June 3, 1999, to effectively commence the Schulzes' action within the statutory time period, a copy of the summons and complaint needed to be served upon Leader National by September 1, 1999. When the Schulzes failed to complete service by that date, the trial court properly dismissed the action for lack of personal jurisdiction.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

