

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-CA-01276-COA

JACK DARTY

APPELLANT

v.

**NICHOLAS A. HALL, SKYE ORTIZ AND
MISSISSIPPI FARM BUREAU CASUALTY
INSURANCE COMPANY**

APPELLEES

DATE OF JUDGMENT:	09/23/2025
TRIAL JUDGE:	HON. M. BRADLEY MILLS
COURT FROM WHICH APPEALED:	RANKIN COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	THOMAS L. TULLOS THOMAS LEWIS TULLOS II
ATTORNEYS FOR APPELLEES:	SAM STARNES THOMAS OWEN PATRICK TERRY
NATURE OF THE CASE:	CIVIL - INSURANCE
DISPOSITION:	AFFIRMED - 10/27/2026
MOTION FOR REHEARING FILED:	

BEFORE BARNES, C.J., McDONALD AND EMFINGER, JJ.

McDONALD, J., FOR THE COURT:

¶1. Jack Darty appeals a Rankin County Circuit Court’s grant of summary judgment in favor of Mississippi Farm Bureau Casualty Insurance Company (Farm Bureau). The court dismissed his claim for uninsured-motorist benefits, finding it was barred by the statute of limitations. On appeal, Darty argues (1) that the circuit court erred by finding that the statute of limitations barred his uninsured-motorist claim against Farm Bureau and (2) that his amended complaint related back to the date of his original complaint under Mississippi Rule of Civil Procedure 15(c).

STATEMENT OF FACTS

¶2. On April 13, 2018, Jack Darty (Darty) was involved in an automobile accident with Nicholas Hall (Hall) and Skye Ortiz (Ortiz) in Flowood, Mississippi.¹ Ortiz’s vehicle hit Hall’s vehicle, causing Hall to lose control and strike Darty’s vehicle from the rear. The collision injured Darty’s left knee. When the accident occurred, Darty was insured by Farm Bureau under an active uninsured/underinsured motorist (UM) policy.

¶3. On April 26, 2018, Darty underwent an MRI of his left knee, which revealed a complex medial meniscus tear and arthritic changes in the medial compartment. On May 22, 2018, Darty saw treating physician Dr. Charles Black IV,² who reviewed the earlier MRI, examined Darty’s knee, and found medial joint-line tenderness and patellofemoral crepitus. Dr. Black concluded that the MRI findings corroborated his physical examination.³

¶4. Dr. Black explained his findings to Darty, discussed operative and non-operative⁴

¹ Monica Moffatt was a passenger in Darty’s car at the time of the accident, but she is not a party in this action.

² Dr. Black practiced general orthopedics in Laurel, Mississippi, where he treated adults and pediatric patients and performed orthopedic surgery. He also served on the staff of South Central Regional Medical Center. The circuit court qualified Dr. Black as an expert in orthopedic surgery.

³ Dr. Black identified two significant abnormal findings during his physical examination: medial joint-line tenderness and positive patellofemoral crepitus. He explained that medial joint-line tenderness indicated possible meniscal pathology and that patellofemoral crepitus indicated grinding or softening of the cartilage between Darty’s kneecap and femur. Dr. Black also found no evidence of an ACL tear or collateral ligament damage. The MRI revealed a complex medial meniscus tear and arthritic changes in the medial compartment of Darty’s knee and revealed no tears to the ACL, PCL, or collateral ligaments.

⁴ Darty’s non-operative treatment included medication (NSAIDs), physical therapy, and injections, which Dr. Black considered as “conservative treatment.”

treatment options and also explained that the non-operative course of treatment would likely lead to surgery in the near future. Darty understood the possibility of surgery but elected to exhaust all non-operative treatment options. Dr. Black created Darty's treatment plan, which required him to return to the clinic in four to six weeks. Dr. Black also advised him that continued symptoms could warrant corticosteroid injections.

¶5. On June 19, 2018, Darty returned to Dr. Black for his second physical examination and reported improvement in his knee. Dr. Black examined Darty's knee and again found patellofemoral crepitus and medial joint-line tenderness but found no meniscal pain, effusion, or ligament instability. Because of Darty's reported improvement, Dr. Black continued conservative treatment.

¶6. On October 17, 2019, Darty filed a complaint against Hall and Ortiz along with discovery requests.⁵ Darty's complaint alleged that (1) the accident caused his left-knee injury, "a complex medial meniscus tear," (2) his injuries were "permanent and temporary in nature," and (3) he incurred "substantial expenses for doctor bills, hospital bills, physical therapy, medicine and other necessary medical expenses," which he would continue to incur in the future.

¶7. On June 22, 2021, Hall answered Darty's interrogatories and indicated that he had insurance coverage up to \$50,000 to pay any of Darty's medical bills. Despite knowing the limits of Hall's coverage and knowing that he would probably need surgery, Darty did nothing at this point to add Farm Bureau in his lawsuit.

⁵ Darty named Ortiz as a defendant in his original complaint but never served her with process.

¶8. Darty did not return to Dr. Black until January 5, 2022, when he reported continued left-knee pain. Dr. Black examined Darty and discovered left-knee arthritic changes. On March 15, 2022, Darty returned to Dr. Black with continued left-knee pain and agreed to receive corticosteroid injections. The injection⁶ provided immediate pain relief. Darty received additional corticosteroid injections in July and November 2022. During those visits, Darty and Dr. Black did not discuss surgery.

¶9. Over a year later, on March 23, 2023, Darty returned to Dr. Black after his knee pain worsened, and the injections became less effective. Dr. Black examined Darty and observed substantially the same findings he had observed in his earlier examinations. Dr. Black later described his conversation with Darty at that time:

Q. Did he [Darty] tell you why he had decided that he wanted to discuss other options such as surgery?

A. He mentioned that his pain had just kind of gotten a little bit worse. And also just from kind of – I inferred that the injections may not have been helping the way they were helping previously.

Q. Okay. And at that point, did you examine the knee?

A. Yes, sir. We did a physical examination to the left knee. Again, the pertinent positives were the positive patellofemoral grind test to his left knee, which is taking the kneecap and pressing against the femur. And the patient also displayed four out of five quadricep weakness to his left knee as well.

Q. So would you say – and correct me if I'm wrong – that this was basically the same findings you had the entire time?

A. Yes, sir.

⁶ Darty's assessment plan notes that he was a candidate for repeated corticosteroid injections every three to four months.

At this point, Darty and Dr. Black discussed surgery and determined it was an appropriate treatment option. Dr. Black performed surgery on Darty's left knee on May 3, 2023. Before surgery, Darty's medical expenses totaled \$1,695.75.⁷ After surgery, counsel for Darty represented that his medical expenses exceeded \$15,000. Still, Darty did not take any action against Farm Bureau.

¶10. Over a year after his surgery and three years after learning the limits of Hall's coverage, on June 6, 2024, Darty filed a motion in the circuit court for leave to amend his original complaint and add his insurance company, Farm Bureau, as an additional defendant under his UM coverage. Darty's amended complaint alleged that:

[at] the time of the motor vehicle wreck, the Plaintiff, Jack Darty, had in full force and effect uninsured motorist coverage by and through Mississippi Farm Bureau Casualty Insurance Company on five (5) vehicles with \$25,000 for each person and \$50,000 for each accident for a total of \$125,000.00 of uninsured motorist coverage per person. . . .”

Darty also asserted that Hall carried only \$50,000 in liability coverage and that the cost associated with his surgery and future medical treatment exceeded Hall's available coverage. Darty further argued that he did not know that he needed surgery until March 2023, and could not reasonably have known that his medical expenses would exceed Hall's liability coverage until then.

¶11. On August 22, 2024, the circuit court granted Darty leave to amend his complaint and add Farm Bureau as a defendant, subject to the \$125,000 UM policy limit. Darty filed his amended complaint on September 9, 2024, alleging that the April 2018 accident injured his

⁷ Darty incurred medical bills from various entities, including South Central Clinics (\$195.75), South Central Orthopedics (\$290), and Open Air MRI (\$1,210.00).

left knee and that conservative treatment failed, resulting in surgery in May 2023. Darty also attached discovery, and Farm Bureau was served with process on September 13, 2024.

¶12. On June 24, 2025, Farm Bureau moved for summary judgment and argued that the applicable statute of limitations barred Darty's claims against it. On September 23, 2025, the circuit court granted Farm Bureau's motion for summary judgment and dismissed Darty's UM claim with prejudice after finding that the statute of limitations barred his claim.

¶13. On October 22, 2025, Darty appealed, and he raises two issues: (1) whether the circuit court erred by finding that the statute of limitations barred his UM claim against Farm Bureau and (2) whether his amended complaint adding Farm Bureau related back to the date of his original complaint under Mississippi Rule of Civil Procedure 15(c).

STANDARD OF REVIEW

¶14. This court employs a de novo standard of review of a circuit court's grant or denial of summary judgment. *Heiser v. State Farm Mut. Auto. Ins. Co.*, 429 So. 3d 1240, 1246 (¶13) (Miss. Ct. App. 2026) (quoting *United Servs. Auto. Ass'n v. Moffatt*, 334 So. 3d 165, 168 (¶15) (Miss. Ct. App. 2022)). Summary judgment is proper "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." M.R.C.P. 56(c). We view the evidence in the light most favorable to the nonmoving party, and the movant bears the burden of showing no genuine issue of material fact exists. *Duckworth v. Warren*, 10 So. 3d 433, 436 (¶9) (Miss. 2009).

¶15. Additionally, the application of a statute of limitations is a question of law, which this Court reviews de novo. *Lyas v. Forrest Gen. Hosp.*, 177 So. 3d 412, 416 (¶18) (Miss. 2015) (citing *Sarris v. Smith*, 782 So. 2d 721, 723 (Miss. 2001)). A statute-of-limitations defense is proper for summary judgment. *Robertson v. Moody*, 918 So. 2d 787, 789 (¶12) (Miss. Ct. App. 2005) (citing *Smith v. Sanders*, 485 So. 2d 1051, 1053 (Miss. 1986)).

DISCUSSION

I. Whether the circuit court erred by finding Darty’s UM claim barred by the statute of limitations.

¶16. Generally, “a cause of action against an insurer for UM benefits is subject to a three-year statute of limitations.” *United Servs. Auto. Ass’n v. Moffatt*, 334 So. 3d 165, 169 (¶16) (Miss. Ct. App. 2022) (alteration in original) (quoting *Montgomery v. Safeco Ins. Co. of Ill.*, 99 So. 3d 225, 228 (¶8) (Miss. Ct. App. 2012) (citing Miss. Code Ann. § 15-1-49 (Rev. 2012))). The statute of limitations on an UM claim begins to run when the insured knows or reasonably should know that the damages exceed the alleged tortfeasor’s available insurance coverage. *Id.* (citing *Jackson v. State Farm Mut. Auto. Ins. Co.*, 880 So. 2d 336, 343 (¶21) (Miss. 2004)).

¶17. The facts of *Jackson* and *Moffatt* illustrate the application of this statute of limitations. In *Jackson*, an automobile accident occurred between Jackson and an insured driver on February 10, 1995. *Jackson*, 880 So. 2d at 337 (¶3). At the time of the accident, Jackson had UM coverage through a policy issued by State Farm. *Id.* The driver’s insurer paid \$181.00 to repair damages to Jackson’s vehicle. *Id.* Jackson never notified State Farm about the accident. *Id.*

¶18. On the evening of the accident, Jackson went to the emergency room with neck and back pain; doctors performed X-rays and CAT scans, prescribed medication, and recommended a neurosurgeon if her pain continued. *Id.* at 337-38 (¶4). She returned to the emergency room on May 4, 1995, due to continuous lower back pain, and an MRI revealed degenerative disc disease with probable central disk herniation and marginal spurs. *Id.* at 338 (¶4). On May 10, 1995, Jackson’s neurosurgeon noted the same findings as her previous MRI. *Id.* While physical therapy relieved her neck pain, her lower back pain increased, forcing her to visit the emergency room. *Id.* By August 1995, following physical therapy, Jackson reached “maximum medical improvement” from her diagnosed discomfort. *Id.*

¶19. On February 3, 1998, Jackson filed suit for damages against the driver, alleging that the accident caused her “to suffer serious, permanent, painful and disabling injuries.” *Id.* at 339 (¶6). On October 8, 1998, Jackson returned to her neurosurgeon after complaints of back pain. *Id.* at (¶7). He again prescribed physical therapy and home exercise. *Id.* On January 4, 1999, Jackson learned of the driver’s liability coverage through the driver’s answers to discovery, but she did not add her own UM carrier (State Farm) until July 12, 2000. *Id.* at 339-40 (¶¶8-12). In November 1999, Jackson’s attorneys sent the neurosurgeon some questions to answer “yes or no” to concerning his treatment of Jackson. *Id.* at 339 (¶10). The doctor’s responses restated Jackson’s diagnosis and treatment since the accident. *Id.* Jackson later argued that she did not know the driver’s coverage was insufficient until she learned about the extent of her injuries in November 1999. *Id.* at 339 (¶¶9-13). The court rejected this argument and granted summary judgment, but the Court of Appeals reversed

after finding material facts in dispute. *Id.* at 340 (¶14).

¶20. However, the Mississippi Supreme Court disagreed. *Id.* at (¶20). The Supreme Court emphasized that Jackson knew the extent of her injuries in May 1995, years before she added her UM coverage, and also that Jackson knew when she filed suit that the driver's coverage was inadequate. *Id.* at (¶¶20-22). Thus, the three-year statute of limitations barred Jackson's claim. *Id.* at 343 (¶21). Accordingly, the Court affirmed the trial court's grant of summary judgment to State Farm. *Id.* at 343 (¶21).

¶21. In *United Services Automobile v. Moffatt*, 334 So. 3d 165, 172 (¶29) (Miss. Ct. App. 2022), we recognized that a plaintiff may not know the limitations of the tortfeasor's insurance coverage until that tortfeasor answers discovery. *Id.* at 167 (¶6). In *Moffatt*, a car accident occurred between Moffatt and an insured driver on February 12, 2012. *Id.* at 167 (¶¶3-5). At the time of the accident, Moffatt had UM insurance coverage through a policy issued by United Services Automobile Association (USAA). *Id.* at 166 (¶1). Moffatt injured her left hand in the accident. *Id.* at 167 (¶4). Five days later, doctors performed surgery and implanted plates and screws to repair fractures in her hand. *Id.* However, Moffatt continued to experience problems in her hand and underwent a second surgery in July 2013 to remove two displaced screws. *Id.* Prior to filing suit, her attorney made demands for the "policy limits." *Id.* at 167 (¶6). But the driver's insurer never produced the driver's policy or revealed its coverage. *Id.* at 167-68 (¶¶6-8).

¶22. On January 16, 2015, Moffatt filed her original complaint against the driver. *Id.* at 168 (¶8). Despite these surgeries, the record reflected that Moffatt did not learn of the

driver's liability coverage until September 2015, when discovery disclosed the driver's \$50,000 policy limit. *Id.* at 168-72 (¶¶9-27). On October 19, 2016, Moffatt moved to amend her complaint to add USAA and add a claim for damages. *Id.* at (¶10). The court granted Moffatt leave, and she filed her amended complaint on October 26, 2016. *Id.* USAA moved for summary judgment. *Id.* at (¶11). USAA argued that Moffatt's claim had accrued by the date of her second surgery (July 1, 2013) and that she knew the severity of her injuries at that time. *Id.* at 170 (¶19).

¶23. After a hearing, the county court granted summary judgment in USAA's favor, finding that Moffatt's claim against USAA was barred by the three-year statute of limitations because she did not file suit against USAA by July 15, 2016. *Id.* at (¶12). Moffatt appealed, arguing that genuine issues of material fact existed regarding when she knew the tortfeasor's coverage would not compensate her injuries. *Id.* at (¶13). The circuit court reversed the county court's summary judgment, finding a genuine issue of material fact regarding when Moffatt knew or should have known her damages exceeded the driver's coverage. *Id.* at (¶14). USAA appealed. *Id.*

¶24. On appeal, we stated: "although the last hand surgery Moffatt attributes to the accident took place on July 1, 2013, even if we used this date as the date when Moffatt could have been reasonably aware of the extent of the damages she suffered (as USAA asserts), we find no indication in the record that Moffatt knew Barber's liability insurance policy limits at that time. Nor do we find any indication in the record that Moffatt somehow learned of Barber's policy limits prior to October 26, 2013." *Id.* at 171-72 (¶27). We noted that Moffatt asserted

her claim did not arise until September 2015, when she learned the limits of the driver's policy. *Id.* at 172 (¶28). We found that factual disputes existed concerning when Moffatt reasonably could have known that her damages exceeded the available coverage. *Id.* at 172-73 (¶29). Therefore, we affirmed the circuit court's order reversing summary judgment and remanded the case to county court for further proceedings. *Id.* at (¶29).

¶25. Both Darty and Farm Bureau rely on *Moffatt* but disagree about its application here. Darty argues that under *Moffatt*, there is a disputed issue of fact as to when he reasonably should have known his damages exceeded Hall's liability coverage. We disagree.

1. Knowledge of Extent of Injury

¶26. Unlike *Moffatt*, Darty knew the extent of his injury, i.e., that his knee injury likely would eventually require surgery, shortly after the accident. An April 2018 MRI revealed a complex medial meniscus tear, and Dr. Black discussed surgical and non-surgical treatment options with Darty. Darty later acknowledged that he knew in 2018 that his injury required surgery:

Q. All right. Mr. Darty, when you first saw Dr. Black on May 22, 2018, didn't he tell you you were likely going to have to have surgery on your knee?

A. He did.

Q. All right. So you knew back then that you were likely headed to knee surgery?

A. Well, I was – I was trying to – trying to avoid that.

Q. I know, but he told you that's where it was going, didn't he?

A. Yes.

Q. All right. And I know why you wanted it, but you knew from the start that probably headed toward surgery?

A. Yes, sir.

Q. All right. And then that came true.

A. Right.

Therefore, Darty knew the extent of his knee injury as of April 2018.

¶27. Despite this admission, Darty argues he did not learn that he needed surgery until March 2023. The record does not support this argument. Although Darty did not undergo surgery until 2023, he (1) knew the extent of his knee injury, (2) knew his available treatment options, and (3) elected to exhaust conservative treatment instead of operative treatment. In addition, Dr. Black testified that he would have performed surgery in 2018 had Darty elected it:

Q. When you first saw him – I forget the date, but it was April, May 2018?

A. Yes, sir.

Q. You discussed with him the treatment options, including surgery, right?

A. Yes, sir.

Q. And you knew right then, based on the MRI, that surgery could have been a potential?

A. Yes, sir.

Q. As a matter of fact, if he had elected to go forward with surgery then, you would have done it, wouldn't you?

A. Yes, sir.

Q. So you told him back in 2018, at the first visit, that surgery may be

something that he ends up with?

A. Yes, sir.

Q. And then in this case, he did, right?

A. Yes, sir.

Thus, there is no factual dispute that Darty knew in 2018 that he likely would eventually need surgery.

¶28. Darty's decision to pursue conservative treatment did not delay the accrual of his UM claim against Farm Bureau. Darty's choice to postpone surgery did not alter what he already knew about the extent of his knee injury and the possibility of surgical treatment and increased medical bills. *See Jackson*, 880 So. 2d at 342-43 (¶¶19-21) (holding the insured's claim time-barred because she knew the extent of their injuries and the tortfeasor's coverage years before adding their UM insurer).

2. *Knowledge of Extent of Hall's Coverage*

¶29. Moreover, there is no factual dispute as to when Darty learned the limitations of Hall's coverage. Darty contends, and Farm Bureau agrees, that Darty learned of Hall's liability coverage on June 22, 2021. Thus, for purposes of the UM claim, the statute of limitations began to run on that date. Darty already knew the extent of his knee injury and the possibility of surgery when he learned that Hall carried only \$50,000 in liability coverage. Therefore, by June 22, 2021, at the latest, Darty possessed the information necessary to know or reasonably determine that his damages exceeded Hall's available coverage. However, Darty did not add Farm Bureau, his UM carrier, until September 9, 2024, after the court granted

him leave to amend his complaint on August 22, 2024.

¶30. Therefore, the three-year statute of limitations bars Darty's UM claim unless his amended complaint relates back to his original complaint.

II. Whether Darty's amendment to his complaint relates back to the date the original complaint was filed.

¶31. Darty argues that he timely filed his motion for leave to amend his complaint to add Farm Bureau as a party, and, thus, under Mississippi Rule of Civil Procedure 15(c), his UM claim related back to the date he filed his original complaint (October 19, 2019). He also argues that his amended complaint was timely. However, Darty's argument combining the timely filing of his motion to amend with the relation-back doctrine mixes apples with oranges, and both arguments fail.

¶32. "[A] cause of action against an insurer for uninsured motorist benefits is an action on contract." *Mitchell v. Progressive Ins. Co.*, 965 So. 2d 679, 683 (¶13) (Miss. 2007) (citing *Emps. Mut. Cas. Co. v. Tompkins*, 490 So. 2d 897, 906 (Miss. 1986)). "As such, a three-year statute of limitations period applies." *Id.* (citing Miss. Code Ann. § 15-1-49(1) (Rev. 2003)). We, too, have held that "[a] cause of action against an insurer for uninsured . . . motorist benefits is subject to a three-year statute of limitations." *Moffatt*, 334 So. 3d at 169 (¶16). We have also held that the catch-all three-year statute of limitations for an uninsured-motorist claim "begins to run when it can be reasonably known that the damages suffered exceed the limits of insurance available to the alleged tortfeasor." *Montgomery*, 99 So. 3d at 228 (¶8).

¶33. In this case, in October 2019, Darty filed suit against Hall for negligence and raised no contract claim. Indeed, he had no contract claim against Farm Bureau until he learned the

limits of Hall’s coverage on June 22, 2021. As we have already held, Darty was aware at that time that he likely would have to have surgery; thus, he knew, as of June 22, 2021, that Hall’s coverage would not be sufficient to cover his damages and that he would have to look for relief from his own insurance carrier by adding a contract claim, i.e., a UM claim, to his current complaint. He had until June 22, 2024, to do so.

1. Timeliness of Motion to Amend

¶34. Darty first argues that he filed his motion for leave to amend the complaint on June 6, 2024, and that this filing tolled the three-year statute of limitations of his UM claim. However, “the filing of a motion to amend does not toll the statute of limitations until the trial court rules on the motion.” *Johnson v. Rhett*, 250 So. 3d 486, 492 (¶17) (Miss. Ct. App. 2018) (quoting *Wilner v. White*, 929 So. 2d 315, 319 (¶4) (Miss. 2006)). “When a motion to amend has not been ruled on, it is clear that the amended complaint [is nothing] more than an attachment to the motion” *Id.* (quotation mark omitted).

¶35. In this case, Darty filed his motion on June 6, 2024, and the statute of limitations against Farm Bureau ran on June 22, 2024. Because the court did not rule on Darty’s motion until August 22, 2024, the amended complaint subsequently filed on September 9, 2024, was untimely and barred by the statute of limitations, unless it relates back to the date of his original filing.

2. Relation Back

¶36. In the alternative, Darty claims that his September 9, 2024 amended complaint should relate back to the date of his original filing, October 19, 2019, pursuant to M.R.C.P. 15(c),

which provides:

(1) Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading.

(2) An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by Rule 4(h) for service of the summons and complaint, the party to be brought in by amendment:

(a) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits,

(b) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

(3) An amendment pursuant to Rule 9(h) is not an amendment changing the party against whom a claim is asserted and such amendment relates back to the date of the original pleading.

M.R.C.P. 15(c).

¶37. However, Darty's UM claim would not relate back under Rule 15(c)(1) because the "conduct, transaction, or occurrence" he alleged in his original complaint was a car accident in which he sustained injuries. His original claim was filed solely for Hall's negligence with no mention of any contract claim. Indeed, until Darty learned the limits of Hall's coverage, Darty had no contract claim against Farm Bureau. The statute of limitations against Farm Bureau did not begin running until June 22, 2021, because the cause of action had not accrued until that date. Thus, because Darty had no claim and could not have pled a claim against Farm Bureau on October 19, 2019, the UM claim was not part of the original "conduct, transaction, or occurrence" and cannot "relate back" to the date of the original

filing.

¶38. Rule 15(c)(2) applies only if subsection 1 applies, i.e., the claim arises from the same “conduct, transaction, or occurrence.” For example, subsection 2 states that “[a]n amendment changing the party against whom a claim is asserted relates back if *the foregoing provision is satisfied and. . .*” M.R.C.P. 15(c)(2). In other words, subsection 2 applies only if subsection 1 has been shown. Moreover, the purpose of subsection 2 is to cure any mistake as to who the actual parties should be. *Wilner*, 929 So. 2d at 323 (¶9). At the time the original complaint was filed in this case, there was no mistake as to the proper defendant (Hall) on the claims pled. The advisory committee notes to Rule 15 are clear:

An amended pleading adding an additional defendant does not relate back to the original pleading unless: (i) it is an amendment changing the defending party’s name and the requirements of M.R.C.P. 15(c)(1) and (2) are met; or (ii) is an amendment substituting a named defendant for a fictitious defendant pursuant to M.R.C.P. 9(h) and the reasonable diligence standard is met.

M.R.C.P. 15 adv. comm. notes. Accordingly, neither of these provisions apply in Darty’s case. Thus, the amended complaint was untimely and did not relate back to the date of the original complaint.

CONCLUSION

¶39. We conclude that the three-year statute of limitations barred Darty’s UM claim. We also conclude that Darty’s amended complaint failed to satisfy Rule 15(c) and therefore did not relate back to the date of his original complaint. Accordingly, we affirm the circuit court’s grant of summary judgment in favor of Farm Bureau.

¶40. **AFFIRMED.**

**BARNES, C.J., CARLTON, P.J., LAWRENCE, McCARTY, EMFINGER,
WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR. WESTBROOKS, J., CONCURS
IN PART AND IN THE RESULT WITHOUT SEPARATE WRITTEN OPINION.
WILSON, P.J., CONCURS IN RESULT ONLY WITHOUT SEPARATE WRITTEN
OPINION.**