

STATE OF MICHIGAN
COURT OF APPEALS

RANDALL GAGE and CHRISTINE GAGE,

UNPUBLISHED

Plaintiff-Appellants,

v

No. 190053

LC No. 90-004059-NI

ON REMAND

JOSEPH MEDIA and LISA OWENS,

Defendants,

and

CITIZENS INSURANCE COMPANY OF AMERICA,

Garnishee Defendant-Appellee.

Before: Cavanagh, P.J, and Corrigan and White, JJ.

WHITE, J. (concurring).

I agree with the majority that Foley still owned the vehicle at the time of the accident. I concur in the majority's affirmance of the grant of summary disposition to Citizens because I conclude the *Lilje v Allstate Ins Co.*, 393 Mich 259; 224 NW2d 279 (1974), which has not been overruled, is controlling. Although the Supreme Court's order vacating the memorandum opinion of this Court and remanding for reconsideration in light of *Goins v Greenfield Jeep Eagle, Inc.*, 449 Mich 1; 534 NW2d 467 (1995), *Citizens Ins Co of America v Federated Mutual Ins Co.*, 448 Mich 225; 531 NW2d 138 (1995), and *Clevenger v Allstate Ins Co.*, 443 Mich 646; 505 NW2d (1993), might signal a willingness to overrule *Lilje, supra*, none of these cases, each fully described in the majority opinion, deals with the circumstances presented in *Lilje*, and none addresses the distinguishing feature and basis for decision in *Lilje* – a policy of insurance which had not been issued in respect to a particular vehicle. In *Lilje*, the Supreme Court expressly disapproved of the Court of Appeals' analysis and its reliance on *Celina Mutual Ins Co v Preferred Risk Mutual Ins Co.*, 51 Mich App 99; 214 NW2d 704 (1974). Because the Supreme Court has not overruled *Lilje*, and because, although I have carefully reconsidered the case in light of *Goins*, *Citizens*, and *Clevenger*, I conclude reconsideration as directed

by the Supreme Court does not provide a basis for distinguishing *Lilje*, or *Celina*, expressly disapproved by the Supreme Court in *Lilje*, I respectfully conclude that *Lilje* must be followed. On this basis, I concur in the affirmance.

/s/ Helene N. White