

# Court of Appeals, State of Michigan

## ORDER

Huston Brown v Automobile Club Insurance Association

Docket No. 278803

LC No. 06-603808-NF

Kurtis T. Wilder  
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly  
Judges

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In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the May 31, 2007, order of the Wayne Circuit Court granting partial summary disposition to plaintiff hereby is REVERSED. The record evidence before this Court demonstrates that genuine issues of material fact exist as to whether plaintiff was an owner of the Buick Riviera and thus was required to maintain a policy of insurance, MCL 500.3113(b); *Ardt v Titan Ins Co*, 233 Mich App 685, 688; 593 NW2d 215 (1999). Jones testified that plaintiff had purchased the Riviera from plaintiff's brother. Also, plaintiff's brother had purchased another vehicle to replace the Riviera; plaintiff's mother already owned another vehicle and plaintiff was in the Riviera on the night of the accident. Thus, genuine issues of material fact exist for trial. Likewise, the parties dispute facts as to whether plaintiff's brother made material misrepresentations to defendant when applying for insurance and whether plaintiff met the definition of an innocent third party so as to avoid rescission of the policy. See *Hammoud v Metro Prop & Cas Ins Co*, 222 Mich App 485, 488-489; 563 NW2d 716 (1997). In light of the disputed facts, plaintiff has not shown that he is entitled to summary disposition as a matter of law. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

DEC 14 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk