

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

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STATE FARM FIRE & CASUALTY COMPANY,  
Subrogee of LISA GLICK,

UNPUBLISHED  
June 9, 1998

Plaintiff-Appellee,

v

No. 194426  
Oakland Circuit Court  
LC No. 95-499040-ND

AUTO-CLUB INSURANCE ASSOCIATION,  
a/k/a ACIA, a/k/a AAA,

Defendant-Appellant.

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Before: Gage, P.J., and Reilly and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right from an April 1, 1996 order of the trial court granting summary disposition in favor of plaintiff. The order awarded plaintiff \$41,209.48 representing damages suffered by plaintiff's subrogee, Lisa Glick, as a consequence of a truck fire in her carport. We affirm.

This case is an insurance coverage dispute between plaintiff, the homeowner's insurer, and defendant, the automobile insurer. The facts of the case are not in dispute. The home of Lisa Glick was damaged by fire when a friend's 1982 truck, while parked in the carport connected to her home, spontaneously caught fire early in the morning on June 18, 1994. Plaintiff was the insurer of Lisa Glick's home and defendant was the no-fault insurer of the truck. The insurers disputed who was responsible for paying benefits for the cost of the damage to Glick's home. The trial court ruled that the property damage arose out of the ownership, operation, maintenance, or use of the parked motor vehicle as a motor vehicle under MCL 500.3121(1); MSA 24.13121(1) of the no-fault act, MCL 500.3101 *et seq.*; MSA 24.13101 *et seq.*, and, consequently, that defendant, as the no-fault insurer, was liable.

I

Defendant argues that the parked motor vehicle exception, MCL 500.3106; MSA 24.13106, governs the resolution of this issue. In reviewing the language of this provision, the ordinary meaning of the provision's words limits the application of the exclusion to accidents that cause "bodily injury."<sup>1</sup> The statute unambiguously does not apply to the circumstances of this case because there was no bodily

injury, only property damage. The statute must be applied as written. See *Putkamer v Transamerica Ins Corp of America*, 454 Mich 626, 631; 563 NW2d 683 (1997).

Defendant, however, argues that its interpretation that the exclusion applies is supported by this Court's reasoning in *Ford Motor Co v Ins Co of North America*, 157 Mich App 692; 403 NW2d 200 (1987). In *Ford Motor Co*, there was an explosion at a Ford plant site when a tank truck unloaded its catalyst into the wrong tank. Contrary to defendant's argument, this case expressly supports the conclusion that the parked vehicle exclusion, § 3106, applies only to cases involving personal injury, and not property damage. In *Ford Motor Co*, the plaintiff argued that the accident met the "arising out of" requirement of § 3121(1)<sup>2</sup> because the truck had unloaded cargo as provided in § 3106(1)(b) and cited *Bauman v Auto-Owners Ins Co*, 133 Mich App 101; 348 NW2d 49 (1984). This Court in *Ford Motor Co*, *supra*, p 697, rejected this claim, holding:

However, *Bauman* was a *personal injury case*, and was based on a different section of the no-fault act in which the Legislature specifically provided that a plaintiff could recover *for personal injuries* in certain circumstances when the vehicle was being loaded or unloaded. MCL 500.3106(1)(b); MSA 24.13106(b). No Michigan court has interpreted "use" in the *property damage section* of the no-fault act to include loading and unloading. [Emphasis added.]

Thus, the analysis in *Ford Motor Co* supports the conclusion that the parked vehicle exclusion in § 3106 only applies to personal injury cases.

Defendant also argues that its interpretation is supported by our Supreme Court's decisions in *Turner v Auto Club Ins Ass'n*, 448 Mich 22; 528 NW2d 681 (1995), *Heard v State Farm Mut Automobile Ins Co*, 414 Mich 139; 324 NW2d 1 (1982), and *Miller v Auto-Owners Ins Co*, 411 Mich 633; 309 NW2d 544 (1981). However, these decisions do not support defendant's argument. The Supreme Court in *Heard* and *Miller* examined insurance claims of personal injury involving parked motor vehicles under § 3106, and not property damage, and therefore they do not implicate the applicability of § 3106 in a property damage case. The Supreme Court's analysis in *Turner* examined an insurer's liability for an accident that caused property damage, but it did not apply § 3106 to its facts. Consequently, the trial court in the present case rightly concluded that "MCL 500.3106 does not apply because this is a property damage case, not a claim for personal injury."

## II

In the alternative, defendant argues that the property damage did not arise out of the ownership, operation, maintenance, or use of the motor vehicle as a motor vehicle under § 3121(1). Defendant specifically attacks the required causal nexus between the parked truck and the fire damage to the property (the carport and house).

The parties stipulated to the fact that the truck spontaneously caught fire. As noted by defendant, the fire was accidental and spontaneous, apparently originating in the dashboard area of the truck's radio. The fire in the truck spread to the carport where the truck was parked, which in turn

spread to Glick's home. It is defendant's contention that the requisite causal relationship or nexus does not exist between the parked motor vehicle and the fire damage to the carport and house; that is, that the fire damage did not "arise out of" the ownership of the motor vehicle as a motor vehicle.

Here, the key issue is whether the property damage arose out of the ownership of the motor vehicle insured by defendant in its capacity as a motor vehicle. Our Supreme Court has observed that injuries involving parked vehicles do not normally involve the vehicle as a motor vehicle because injuries involving parked vehicles typically involve the vehicle in much the same way as any other stationary object (such as a tree, sign post, or boulder) would be involved. *Putkamer, supra*, p 633, quoting *Miller, supra*, p 639. Here, however, the qualitative characteristics of the truck which were the source of the fire are the key factors in the resulting fire damage. In other words, the quality that made the vehicle a motor vehicle are what caused the property damage. The truck is filled with flammable gasoline, has a source of ignition (such as the wiring), and has many flammable parts. Unlike a tree, sign post, or boulder, these very qualities of the motor vehicle can lead it to spontaneously burst into fire. Further, the truck was parked in the carport precisely because it was a motor vehicle.

Therefore, the cause of the property damage in the present case was the parked truck itself, apparently originating from some flaw in the dashboard/radio area within the truck. There is no evidence suggesting an intervening cause. The fire in the truck directly led to the fire in the carport and the house. Accordingly, defendant no-fault insurer is liable for personal property insurance under § 3121 because the damage to the property arose out of the ownership of the motor vehicle *as a motor vehicle*. The trial court properly granted summary disposition in favor of plaintiff in the amount of the property damage.

Affirmed.

/s/ Hilda R. Gage

/s/ Kathleen Jansen

<sup>1</sup> The exclusion of MCL 500.3106; MSA 24.13106 provides in pertinent part:

(1) *Accidental bodily injury* does not arise out of the ownership, operation, maintenance, or use of a parked vehicle as a motor vehicle unless any of the following occur:

(a) The vehicle was parked in such a way as to cause unreasonable risk of the bodily injury which occurred.

(b) Except as provided in subsection (2), the injury was a direct result of physical contact with equipment permanently mounted on the vehicle, while the equipment was being operated or used, or property being lifted onto or lowered from the vehicle in the loading or unloading process.

(c) Except as provided in subsection (2), the injury was sustained by a person while occupying, entering into, or alighting from the vehicle. [Emphasis added.]

<sup>2</sup> MCL 500.3121(1); MSA 24.13121(1) provides in full:

Under property protection insurance an insurer is liable to pay benefits for accidental damage to tangible property arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle subject to the provisions of this section and sections 3123, 3125, and 3127. However, accidental damage to tangible property does not include accidental damage to tangible property, other than the insured motor vehicle, that occurs within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles.