

Order

Michigan Supreme Court
Lansing, Michigan

November 13, 2015

151026

KYLE OOSTDYK, a Minor, by his Conservator,
DAWN BUDD,

Plaintiff-Appellee,

and

SPECTRUM HEALTH HOSPITALS, SPECTRUM
HEALTH CONTINUING CARE, MARY FREE
BED REHABILITATION HOSPITAL, and
GOLDEN RULE INSURANCE COMPANY,
Intervening Plaintiffs-Appellees,

v

AUTO OWNERS INSURANCE COMPANY,
Defendant-Appellant.

SC: 151026
COA: 317221
Kalamazoo CC: 2010-000277-NF

On order of the Court, the application for leave to appeal the December 30, 2014 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court. The Court of Appeals erred by relying on the “almost any causal connection” standard of *Scott v State Farm Mut Auto Ins Co*, 278 Mich App 578, 586 (2008). The “almost-any” standard is discredited and inconsistent with current law to the extent it suggests a plaintiff may meet the statutory causation requirement without proving the causal connection was “more than incidental, fortuitous, or but for.” See *McPherson v McPherson*, 493 Mich 294, 299 (2013). However, denial is warranted because the trial court correctly instructed the jury that under MCL 500.3105(1), the plaintiff had to prove the causal connection between the injury and the use of the motor vehicle was “more than incidental, fortuitous, or but for.” See *Thornton v Allstate Ins Co*, 425 Mich 643, 646 (1986).



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 13, 2015


Clerk