

STATE OF MICHIGAN
COURT OF APPEALS

MARLINDA ACEA,

Plaintiff-Appellant,

v

AUTOMOBILE CLUB INS ASS'N,

Defendant-Appellee.

UNPUBLISHED

September 30, 1997

No. 195431

Wayne Circuit Court

LC No. 95-520313-NO

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

In this declaratory judgment action, plaintiff appeals as of right from a determination that defendant neither owed a duty to defend nor indemnify its insureds, Daniella and Jonathan Moore, under a no-fault automobile insurance policy, in a lawsuit brought by plaintiff against the Moores, for injuries sustained when the Moores' dog lunged through a partially open automobile window and bit the plaintiff. This case is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

The liability that plaintiff asserted against the Moores does not arise out of the Moores' ownership, maintenance or use of a motor vehicle. *Putkamer v Transamerica Ins Corp of America*, 454 Mich 626; 563 NW2d 683 (1997); *Century Mutual Ins Co v League General Ins Co*, 213 Mich App 114, 121; 541 NW2d 272 (1995). Rather, the Moore automobile was the mere situs of the injury, *Century Mutual, supra*, and there was no showing on the instant record that one of the three exceptions to the parking exclusion set forth in MCL 500.3106(1); MSA 24.13106(1) existed, *Putkamer, supra*. Accordingly, defendant possesses no duty to defend or indemnify the Moores in the suit brought against them by plaintiff for injuries sustained when the Moores' dog bit plaintiff. *Arco Industries Corp v American Ins Co (On Remand)*, 215 Mich App 633, 636; 546 NW2d 709 (1996), lv gtd 454 Mich 873 (1997); *Century Mutual, supra*.

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski

