

STATE OF MICHIGAN
COURT OF APPEALS

UNIVERSAL UNDERWRITERS GROUP,

Plaintiff-Appellant,

v

AUTO-OWNERS INSURANCE CO.,

Defendant-Appellee.

UNPUBLISHED

July 21, 2000

No. 218151

Jackson Circuit Court

LC No. 98-087609-NF

Before: Saad, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

In this declaratory judgment action, plaintiff appeals as of right from the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

I.

Facts and Proceedings

In 1996, Jon Michael Kennedy, an employee of Polly's Inc., attempted to obtain fleet no-fault auto insurance for his personal vehicle (a Jeep) from defendant, his employer's insurance company. The Walton Agency brokered the insurance relationship between defendant and Polly's. Kennedy¹ instructed the Walton Agency to add his Jeep to Polly's corporate insurance policy. The Walton Agency, apparently believing that Kennedy's Jeep was owned by Polly's, requested that defendant add the Jeep to Polly's policy. The application for insurance submitted to defendant indicated that the Jeep was owned by Polly's, the named insured, not Kennedy. Subsequently, the Jeep was specifically endorsed on Polly's corporate fleet insurance policy. Although the jeep was listed as an insured vehicle under the policy, Kennedy was not a named insured under the policy.

While driving a loaner vehicle provided by the repair shop servicing his Jeep, Kennedy was involved in a car accident and suffered personal injuries. Plaintiff, insurer of the loaner car, paid Kennedy's medical bills and sought reimbursement from defendant as Kennedy's primary insurer.

¹ Kennedy's father owned Polly's Inc.

Defendant refused to reimburse plaintiff and plaintiff filed the instant declaratory judgment action. Instead of granting plaintiff's requested relief, the court granted defendant summary disposition.

II.

Analysis

On appeal, plaintiff claims that the trial court erred in granting defendant's motion for summary disposition. When a party files a motion for summary disposition on grounds that there are no genuine issues of material fact, the court must review the record and determine whether the moving party is entitled to judgment as a matter of law. *Van v Zahorik*, 460 Mich 320, 326; 597 NW2d 15 (1999); *Kentwood Public Schools v Kent County Ed Assoc*, 206 Mich App 161, 164; 520 NW2d 682 (1994).

Here, the trial court properly granted summary disposition in favor of defendant. The accident from which this litigation arose involved a rental vehicle which was not insured under the policy issued by defendant. Furthermore, the driver was not a named insured under the policy. Moreover, although the driver's personal vehicle, through no fault of defendant, was erroneously listed as an insured vehicle under the policy, it was not owned by or registered to the named insured under the policy, a corporate entity. In Michigan, an insurer that issues a fleet no-fault auto insurance policy to a corporation is not responsible for payment of personal injury protection benefits under the policy when that employee is involved in an accident in a non-scheduled vehicle, even if one of the scheduled vehicles is owned by that employee. *Allstate Insurance Co v Citizens Insurance Co*, 118 Mich App 594; 325 NW2d 505 (1982). To expand the coverage as requested by plaintiff would unfairly expand the risks assumed by the corporate insurer. *Id.*

Affirmed.

/s/ Henry William Saad

/s/ Joel P. Hoekstra

/s/ Jane E. Markey