

STATE OF MICHIGAN
COURT OF APPEALS

SARAH ARAKELIAN,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION,

Defendant-Appellee.

UNPUBLISHED
February 26, 2002

No. 227989
Wayne Circuit Court
LC No. 99-916048-CK

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the order granting defendant's motion for declaratory relief. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was involved in a motor vehicle accident that was allegedly triggered by an unknown driver. She sought uninsured motorist benefits, asserting that the unknown driver caused another car to collide with the vehicle in which she was riding. Neither car made physical contact with the unknown driver. Defendant denied coverage on the ground that the policy limits uninsured motorist coverage to vehicles making physical contact.

If the language of a contract is clear, its construction is a matter of law subject to de novo review. *G & A, Inc v Nahra*, 204 Mich App 329, 330; 514 NW2d 255 (1994). Uninsured motorist benefits are not statutorily required, and the language of the insurance policy controls whether benefits are payable. *Berry v State Farm Mutual Automobile Ins Co*, 219 Mich App 340, 346; 556 NW2d 207 (1996).

This Court has upheld policy language limiting uninsured motorist coverage to situations where there is actual physical contact between the uninsured and the insured motor vehicle. *Wills v State Farm Ins Co*, 222 Mich App 110; 564 NW2d 488 (1997). In that case, this Court noted that the physical contact requirement has been construed broadly to include indirect physical contact as long as a substantial physical nexus exists between the unidentified vehicle and the object cast off by that vehicle or the object that strikes the insured's vehicle. *Id.* at 115. In the present case, the trial court properly found that there was no substantial physical nexus between the uninsured vehicle and plaintiff's vehicle. There was no contact between the

uninsured vehicle and the vehicle that collided with plaintiff. Absent such contact, the uninsured vehicle could not propel the second vehicle into plaintiff.

Affirmed.

/s/ Michael R. Smolenski

/s/ Martin M. Doctoroff

/s/ Donald S. Owens