

STATE OF MICHIGAN
COURT OF APPEALS

MONA LISA FRAZIER,

Plaintiff-Appellee,

v

ALLSTATE INSURANCE COMPANY,

Defendant-Appellant.

UNPUBLISHED

December 21, 2010

No. 292149

Macomb Circuit Court

LC No. 2006-003787-NF

MONA LISA FRAZIER,

Plaintiff-Appellant,

v

ALLSTATE INSURANCE COMPANY,

Defendant-Appellee.

No. 293904

Macomb Circuit Court

LC No. 2006-003787-NF

Before: WILDER, P.J., and CAVANAGH and M. J. KELLY, JJ.

WILDER, P.J. (*concurring*).

I concur in the lead opinion's reasoning and result affirming the trial court's refusal to grant defendant's motion for directed verdict because the jury could have found that the "alighting from the vehicle" exception, MCL 500.3106(1)(c), applied to the circumstances presented in this case. However, I respectfully disagree with the lead opinion's conclusion that a passenger door constitutes "equipment permanently mounted on the vehicle" for purposes of MCL 500.3106(1)(b). In *Amy v MIC Gen Ins Corp*, 258 Mich App 94, 127; 670 NW2d 228 (2003), rev'd on other grounds *Stewart v State*, 471 Mich 692; 692 NW2d 376 (2004), a motorcyclist was involved in a fatal collision with a parked vehicle's rear bumper and taillights. The motorcyclist's survivor claimed that the injury was a result of direct physical contact with the bumper and taillights, and these parts constituted permanently mounted equipment. *Id.* This Court stated:

"[b]umpers and taillights are defined as integral parts of a motor vehicle. Were this panel to adopt the argument that 'equipment' within the meaning of MCL

500.3106(1)(b) includes structures like bumpers or lights, the exception would swallow up the exclusion and make the exclusion nugatory.” [*Id.* at 127-128.]

I would conclude that, like bumpers and taillights, a passenger door is an integral part of a motor vehicle, and is distinguishable from other secondary equipment mounted on vehicles, which this Court has determined to fall within the MCL 500.3106(1)(b) exception, including a hook attached to a tow truck, *Winter v Automobile Club of Michigan*, 433 Mich 446, 459; 446 NW2d 132 (1989), an auger system on a grain delivery truck, *Drake v Citizens Ins Co*, 270 Mich App 22, 27; 715 NW2d 387 (2006), and a rear door on a trailer attached to a semi, *Gunsell v Ryan*, 236 Mich App 204, 210 n 5; 599 NW2d 767 (1999).

/s/ Kurtis T. Wilder