

IN THE UTAH COURT OF APPEALS

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State Auto Insurance Companies)	MEMORANDUM DECISION
and State Auto National,)	(Not For Official Publication)
)	
Plaintiffs and Appellants,)	Case No. 20050288-CA
)	
v.)	F I L E D
)	(September 9, 2005)
Enterprise Rent-A-Car Company)	
of Utah, a Utah corporation;)	2005 UT App 376
and the Estate of Lave)	
Ipuapuaga Fuaalii, a deceased)	
individual,)	
)	
Defendants and Appellees.)	

Third District, Salt Lake Department, 040906371
The Honorable Frank G. Noel

Attorneys: Gary L. Johnson and Martha Knudson, Salt Lake City,
for Appellants
Rick L. Rose and Kristine M. Larsen, Salt Lake City,
for Appellee Enterprise Rent-A-Car Company of Utah

Before Judges Davis, Greenwood, and Thorne.

PER CURIAM:

This case is before the court on Enterprise Rent-A-Car Company of Utah's (Enterprise) suggestion of mootness.

"An issue on appeal is considered moot when the requested judicial relief cannot affect the rights of the litigants." State v. Vicente, 2004 UT 6, ¶3, 84 P.3d 1191 (quotations and citation omitted); see also Strollo v. Strollo, 828 P.2d 532, 533 (Utah Ct. App. 1992). "Generally, this court declines to issue advisory opinions on moot issues." In re S.K., 1999 UT App 261, ¶9, 987 P.2d 616. "However, the court may consider a technically moot issue if the issue is of wide concern, affects the public interest, is likely to recur in a similar manner, and, because of the brief time a person is affected, would likely escape judicial review." Strollo, 828 P.2d at 533 (citing Wickham v. Fisher, 629 P.2d 896, 899 (Utah 1981)).

At issue in this appeal is the determination of responsibility for primary insurance coverage of a rental vehicle. Enterprise has agreed to pay the minimum required policy limits for the vehicle at issue. Therefore, a decision by this court on the issue raised by State Auto Insurance Companies (State Auto) would have no impact on the rights of the parties. See Merhish v. H.A. Folsom & Assocs., 646 P.2d 731, 732 (Utah 1982).

While State Auto argues that the underlying question presents "a constant source of conflict between rental car companies and personal auto insurers," there is no indication that this issue is likely to escape judicial review in the future. See Stollo, 828 P.2d at 533; Wickham, 629 P.2d at 899. Because State Auto has not shown that the public interest exception applies in this case, we decline to address the question raised by the State on grounds of mootness and dismiss the appeal. See Ellis v. Swensen, 2000 UT 101, ¶26, 16 P.3d 1233 ("Because mootness is a matter of judicial policy, the ultimate determination of whether to address an issue that is technically moot rests in the discretion of this court.").

This appeal is dismissed.

James Z. Davis, Judge

Pamela T. Greenwood, Judge

William A. Thorne Jr., Judge