

STATE OF MICHIGAN
COURT OF APPEALS

ALI CHAHINE,

Plaintiff-Appellee/Cross-Appellant,

v

MEMBERSELECT INSURANCE COMPANY,

Defendant-Appellant/Cross-Appellee,

and

GEICO INSURANCE COMPANY, LIBERTY
MUTUAL INSURANCE COMPANY, and
LIBERTY SURPLUS INSURANCE
CORPORATION,

Defendants-Appellees/Cross-
Appellees.

UNPUBLISHED

December 16, 2021

No. 356350

Wayne Circuit Court

LC No. 19-005320-NF

Before: SAWYER, P.J., and RIORDAN and REDFORD, JJ.

PER CURIAM.

Plaintiff brought this no-fault insurance action against four insurance companies to recover personal injury protection (PIP) benefits under Michigan’s no-fault act, MCL 500.3101 *et seq.*, as amended by 2019 PA 21.¹ All parties stipulated that determination of plaintiff’s domicile at the time of the accident would resolve the order of insurer priority to provide PIP benefits. The trial court found that plaintiff was domiciled at his parents’ home in Dearborn, Michigan and, consequently, granted summary disposition under MCR 2.116(C)(10) to defendant Geico Insurance Company, dismissed defendants Liberty Mutual Insurance Company and Liberty

¹ The incident occurred—and plaintiff filed his complaint—before the 2019 amendments to the no-fault act became effective. All subsequent references and citations to the no-fault act, MCL 500.3101 *et seq.*, are to the pre-2019 version of that act.

Surplus Insurance Corporation as parties, and denied summary disposition to defendant Memberselect Insurance Company (MIC). The trial court also entered a final judgment against MIC and in favor of plaintiff. MIC now appeals as of right the final judgment against it, the order denying summary disposition to MIC, and the order granting summary disposition to Geico. On cross-appeal, plaintiff requests that we determine—or remand to the trial court to determine—which insurer has the highest priority if it is not MIC. For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

Sometime between 2007 and 2013, plaintiff moved into a marital home in Canton, Michigan, with his first wife, Angela Balowski, with whom he had two children. In a 2013 Dominica visa application, plaintiff listed the Canton home as his “present address,” but listed his parents’ Dearborn home as his “permanent address.” After plaintiff and his first wife divorced in 2013, plaintiff went to Dominica for two years but returned to his parents’ Dearborn home in 2015, which he has considered his permanent home since that time. In 2016, plaintiff went to California for medical school, where he primarily resided through 2018, and brought with him only his car and two suitcases. Plaintiff originally stayed with his sister in California, but he eventually moved in with Michele Messiah, with whom he later leased a home and had a child. While in California, plaintiff drove one of Messiah’s cars, on which he was insured as a driver through Geico.

Despite living in California, plaintiff stated that he “never really moved” to California and that he never intended California to be his permanent home. At least once a month, as well as whenever he had breaks from school, plaintiff would return to Michigan to visit his children. While in Michigan, he and his children would stay at his parents’ Dearborn home, which plaintiff considered his permanent home. Plaintiff still received his bills and mail at his parents’ home, was registered to vote there, maintained a bedroom and kept belongings there, listed the home as his address for loan documents, school applications, and on a Michigan driver’s license he maintained, and was covered under his parents’ no-fault insurance policy through MIC as a resident relative of his insured parents. In 2018, plaintiff began applying for medical residency programs in Michigan, where he intended to move with Messiah and their child. In late December 2018, plaintiff and Messiah married in Michigan. The day after his wedding, plaintiff slipped on a patch of ice in a Dearborn parking lot while he was stepping out of a rental car he was driving that was insured by Liberty Mutual. After the accident in Dearborn, plaintiff returned to California, where he received all of his medical care arising from the accident.

Plaintiff filed suit against MIC, Geico, and Liberty Mutual,² asking the trial court to determine which insurer was responsible under the no-fault act for providing him PIP benefits arising out of the accident. Geico moved for summary disposition, and the trial court held that plaintiff was domiciled at his parents’ Dearborn home at the time of the accident because he only was in California for medical school and clearly intended to return to the Dearborn home after he graduated. Consequently, the trial court granted summary disposition to Geico, dismissed Liberty Mutual as a party, and indicated that MIC likely would have to provide PIP benefits. MIC subsequently filed its own motion for summary disposition, arguing that the home of plaintiff’s

² Plaintiff also filed suit against Liberty Surplus, which appears to be an affiliate of Liberty Mutual.

parents ceased being his domicile when he moved into the Canton home with Balowski and that no evidence rebutted the presumption that plaintiff intended for his Canton home to be his new domicile. The trial court denied MIC's motion, reaffirming its earlier holding regarding plaintiff's domicile, and it subsequently entered final judgment against MIC.

II. DISCUSSION

MIC argues that when the trial court was considering plaintiff's domicile, it should have invoked a rebuttable presumption that a person's domicile is that of his or her spouse. Under this presumption, MIC argues, plaintiff's domicile ceased being his parents' Dearborn home when he moved into his first marital home in Canton sometime before 2013. MIC argues that no record evidence rebutted this presumption and, consequently, the trial court erred in holding that plaintiff's domicile at the time of the accident was at his parents' Dearborn home, erred in denying summary disposition to MIC, and erred in entering judgment against MIC.³

A. STANDARD OF REVIEW

We review de novo a decision to grant or deny a motion for summary disposition and issues of statutory interpretation. *Grange Ins Co of Mich v Lawrence*, 494 Mich 475, 489-490; 835 NW2d 363 (2013). "Summary disposition under MCR 2.116(C)(10) is appropriately granted where no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law." *Id.* A genuine issue of material fact exists if reasonable minds might differ on an issue when viewing all evidence in the light most favorable to the party opposing the motion. See *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). "A domicile determination is generally a question of fact; however, where the underlying material facts are not in dispute, the determination of domicile is a question of law for the circuit court." *Grange*, 494 Mich at 490.

B. MICHIGAN'S NO-FAULT ACT AND THE ORDER OF INSURER PRIORITY

"Michigan's no-fault act generally abolishes tort liability arising from the ownership, maintenance, or use of a motor vehicle" within Michigan, instead requiring insurance companies to provide PIP benefits for "accidental bodily injury arising out of the use of a motor vehicle." *Id.*⁴ The no-fault act describes the order of priority for which insurers must provide PIP benefits to individuals injured in such accidents within Michigan when multiple insurers are involved. See MCL 500.3114. Generally, an insurer is the highest in priority when the injured individual is either a named policyholder or is a "relative of [a named policyholder that is] domiciled in the same household." MCL 500.3114(1). Additionally, an out-of-state insurer must generally provide PIP

³ On cross-appeal, plaintiff argues that the trial court properly determined plaintiff's domicile, but if we conclude the trial court erred, we should determine—or remand to the trial court to determine—which insurer is responsible for providing plaintiff's PIP benefits.

⁴ MCL 500.3106(1)(c) provides that "[a]ccidental bodily injury [arises] out of the ownership, operation, maintenance, or use of a parked vehicle as a motor vehicle" when "the injury was sustained by a person while occupying, entering into, or alighting from the vehicle."

benefits to its non-Michigan-domiciled policyholders that are injured in Michigan, see MCL 500.3163, but it need not provide PIP benefits to its Michigan-domiciled policyholders that are injured in Michigan, *Tienda v Integon Nat'l Ins Co*, 300 Mich App 605, 613; 834 NW2d 908 (2013) (stating that “MCL 500.3163 has no application and may not be used to impose responsibility for payment of PIP benefits on an out-of-state insurer” if the injured individual is “not a nonresident,” i.e., is domiciled in Michigan). When the injured individual is neither a named policyholder nor a relative domiciled with a named policyholder, “the insurer of the owner or registrant of the vehicle occupied” at the time of the accident is the highest in priority. See *Amerisure Ins Co v Coleman*, 274 Mich App 432, 435; 733 NW2d 93 (2007); MCL 500.3114(4)(a).

Initially, although none of the parties disputed the order of priority among the insurers, we agree that the undisputed order of priority was correct in light of the legal issues framed by the parties.⁵ “[A] person who sustains accidental bodily injury while the occupant of a motor vehicle must first look to no-fault insurance policies within his or her household for no-fault PIP benefits.” *Corwin v DaimlerChrysler Ins Co*, 296 Mich App 242, 255; 819 NW2d 68 (2012) (quotation marks and citation omitted); MCL 500.3114(1). While plaintiff was a named insured by Geico in California, Geico would only be the highest in priority for PIP benefits if plaintiff was domiciled in California, i.e., if plaintiff was an “out-of-[Michigan] resident,” at the time of the accident. See *Tienda*, 300 Mich App at 613 (explaining that out-of-state insurers need not provide PIP benefits to its Michigan-domiciled policyholders). On the other hand, MIC, as the insurer of plaintiff’s parents, only would be the highest in priority if plaintiff was domiciled with his parents at their Dearborn home. See *Corwin*, 296 Mich App at 255; MCL 500.3114(1). Liberty Mutual, as the insurer of the owner of the vehicle in which plaintiff was injured, only would be the highest in priority if plaintiff was domiciled in Michigan anywhere other than his parents’ home. See *Amerisure*, 274 Mich App at 435; MCL 500.3114(4)(a).

Thus, the determination of which insurer was responsible for plaintiff’s PIP benefits turned entirely on where plaintiff was domiciled at the time of the accident.

C. PLAINTIFF’S DOMICILE AT THE TIME OF THE ACCIDENT

Although the no-fault act does not define the term domicile, our Supreme Court has clarified the term must be understood according to its peculiar meaning in Michigan’s common law. *Grange*, 494 Mich at 493. Thus, for the purposes of the no-fault act, domicile means “the place where a person has his true, fixed, permanent home, and principal establishment, and to which, whenever he is absent, he has the intention of returning” or “that place where a person has voluntarily fixed his abode not for a mere special or temporary purpose, but with a present intention of making it his home, either permanently or for an indefinite or unlimited length of time.” *Id.* (quotation marks and citation omitted). A person may only have one domicile at any given time, but he or she may have more than one residence, which is “any place of abode or dwelling place, however temporary it might have been.” *Id.* at 494 (quotation marks and citation omitted). A

⁵ The parties discussed MCL 500.3114, not MCL 500.3115, as setting forth the pertinent order of priority.

person maintains his or her domicile until he or she establishes a new domicile by intending to permanently reside elsewhere. *Id.* at 495.

Determining a person's domicile under the no-fault act is "generally a question of intent," but it also requires "consider[ation of] all the facts and circumstances taken together." *Id.* Michigan courts commonly determine domicile by employing a multifactor framework developed by two cases. *Id.* at 497 n 41. The first half of this framework requires consideration of the following factors, none of which alone is dispositive:

(1) the subjective or declared intent of the person of remaining, either permanently or for an indefinite or unlimited length of time, in the place he contends is his "domicile" or "household"; (2) the formality or informality of the relationship between the person and the members of the household; (3) whether the place where the person lives is in the same house, within the same curtilage or upon the same premises[;] (4) the existence of another place of lodging by the person alleging "residence" or "domicile" in the household. [*Id.* at 497, quoting *Workman v Detroit Auto Inter-Ins Exch*, 404 Mich 477, 496-497; 274 NW2d 373 (1979).]

Most of the *Workman* factors weigh in favor of plaintiff's domicile being at his parents' Dearborn home at the time of the accident. First, plaintiff's subjective intent weighs heavily in favor of a Dearborn domicile because he declared numerous times that he did not consider California his permanent home and that he intended on returning to Michigan once he finished medical school. Moreover, plaintiff was applying primarily to Michigan medical residency programs, he often returned to Michigan on breaks from school to visit his children, and he returned to Michigan to marry Messiah. Plaintiff's conduct demonstrated he intended to keep Michigan as his permanent home and that he intended to remain in California only temporarily. Second, although the record does not contain many specifics about plaintiff's relationship with his parents, this factor weighs in favor of a Dearborn domicile because the evidence suggests he and his parents had, at a minimum, an informal relationship. See *Workman*, 404 Mich at 498 (explaining that the "informal and friendly" relationship between a resident and homeowner favored a finding of domicile where the resident used all of the home's facilities, ate meals with the homeowner, and entered the home as she pleased). Plaintiff's parents not only maintained a bedroom for him at their home, but they also allowed him to keep some of his belongings there while he was in California, cooked for him, and shared their cars with him when he stayed at the home. Third, that plaintiff maintained an exclusive bedroom within his parents' home weighs in favor of a Dearborn domicile. Fourth, although plaintiff leased a home in California with Messiah at the time of the accident, this factor also weighs in favor of a Dearborn domicile because he indicated that home was only temporary and that he intended on returning to his parents' home, and he was applying for medical residency programs nearby. See *id.* (explaining that the intent not to return to one residence favored a finding of domicile at the other, preferred residence).

Moreover, with respect to adult children who have "complicated living arrangements," Michigan courts employ the second half of the domicile framework, which considers other relevant indicia of domicile, such as:

[5] whether the claimant continues to use his parents' home as his mailing address,
[6] whether he maintains some possessions with his parents, [7] whether he uses

his parents' address on his driver's license or other documents, [8] whether a room is maintained for the claimant at the parents' home, and [9] whether the claimant is dependent upon the parents for support. [*Grange*, 494 Mich at 497 n 41, quoting *Dairyland Ins Co v Auto-Owners Ins Co*, 123 Mich App 675, 682; 333 NW2d 322 (1983).]

A majority of the *Dairyland* factors also weigh in favor of plaintiff's domicile being at his parents' Dearborn home at the time of the accident. With regard to the fifth factor, plaintiff's mailing address weighs in favor of a Dearborn domicile because plaintiff still listed his mailing address as his parents' Dearborn home, especially for his important mail, such as bills and financial statements. With regard to the sixth factor, it is unclear whether the location of plaintiff's possessions weighs in favor of a Dearborn or California domicile. Although plaintiff initially left most of his possessions at the Dearborn home—taking only his car and two suitcases when he first went to California—the record is unclear as to the division of possessions between the Michigan and California residences or whether he later brought any other possessions to California. As to the seventh factor, the address plaintiff listed on important documents weighs in favor of a Dearborn domicile because, despite obtaining a California driver's license a few months before the accident, he still maintained a Michigan driver's license that listed his parents' home as his address. Plaintiff also listed the Dearborn address for many of his important documents, such as his medical school applications, loan documents, and visa applications. With regard to the eighth factor, plaintiff's bedroom at the Dearborn home weighs in favor of a Dearborn domicile because he not only maintained his own exclusive room at the home, but his children also had their own room at the home when they stayed there with plaintiff. Finally, it is unclear whether the ninth factor weighs in favor of a Dearborn or California domicile because no evidence indicated whether plaintiff relied on his parents financially or otherwise when in Michigan or California.

Given that most of the *Workman-Dairyland* factors weigh in favor of a Dearborn domicile, we hold the trial court correctly concluded that plaintiff was domiciled at his parents' Dearborn home at the time of the accident. The undisputed facts established that plaintiff intended to remain domiciled in Michigan and that he considered his permanent home to be his parents' Dearborn home, where he exclusively lived while in Michigan. See *Goldstein v Progressive Cas Ins Co*, 218 Mich App 105, 112; 553 NW2d 353 (1996) (explaining that a trial court properly determined that a student's domicile was at his parents' home when he kept the majority of his personal possessions at his parents' home, used his parents' address on his driver's license, had an exclusive bedroom at his parents' home, and returned to the home on breaks between school). For that reason, the Dearborn home was plaintiff's "true, fixed, permanent home," to which he intended to return whenever he was absent. *Grange*, 494 Mich at 493. Plaintiff's home in California, on the other hand, was merely a "place of abode" for the "mere special or temporary purpose" of attending medical school and at which he never intended to stay permanently. *Id.* at 493-494. Consequently, the trial court properly concluded, as a matter of law, that plaintiff's domicile at the time of the accident was at his parents' Dearborn home, not in California. Since MIC insured plaintiff's parents and plaintiff was domiciled in the same household as the insureds, the trial court also properly concluded MIC was the insurer highest in priority under the no-fault act, and, therefore, the insurer responsible for providing plaintiff's PIP benefits. See MCL 500.3114(1).

We find MIC's argument that the trial court erred by not invoking a rebuttable presumption about the domicile of spouses unpersuasive. First and foremost, we find no support for this

presumption in Michigan law, which MIC acknowledges. Instead, Michigan courts use the multifactor *Workman-Dairyland* framework that contains no presumption about the domicile of spouses. *Grange*, 494 Mich at 497 n 41. MIC has provided us no reason to replace the fact-intensive *Workman-Dairyland* analysis, which we are obligated to follow, see *Lakin v Rund*, 318 Mich App 127, 138; 896 NW2d 76 (2016), with any general presumptions.⁶ In any event, regardless of whether plaintiff was domiciled with Balowski between 2007 and 2013, plaintiff indicated that his principal place of residence has been his parents' Dearborn home since at least 2015. Plaintiff also indicated that he moved back into his parents' Dearborn home once he returned from Dominica in 2015, and other facts also support that the Dearborn home was his domicile after 2015. Therefore, even if we were to apply MIC's suggested presumption about the domiciles of spouses, that presumption was significantly rebutted by the evidence in this case demonstrating plaintiff was domiciled at his parents' Dearborn home at the time of the accident.

MIC also argues that no evidence indicated plaintiff intended to return *to his parents' Dearborn home* when—or if—he returned to Michigan with Messiah. This argument, however, misconstrues the meaning of domicile. Because an individual must have a single domicile at all times, his or her domicile remains constant until he or she acquires another one. *Grange*, 494 Mich at 494. For that reason, plaintiff's domicile remained at his parents' Dearborn home *until the moment he established a new domicile elsewhere*. Plaintiff did not establish a new domicile in California at the time of the accident because he moved there for the temporary purpose of medical school and intended to return to Michigan. Therefore, the Dearborn home remained plaintiff's domicile regardless of whether he intended to move into that home when he returned to Michigan, and it would only cease being his domicile if he established a new domicile once he returned to Michigan.

III. CONCLUSION

The trial court properly determined that plaintiff was domiciled at his parents' Dearborn home at the time of the accident. Regardless of whether plaintiff abandoned his Dearborn domicile some time before 2013, ample evidence demonstrated that he reestablished his domicile at the Dearborn home beginning in 2015, before the 2018 accident. The trial court also properly held that MIC, as the insurer of relatives with whom plaintiff was domiciled, to be the insurer highest in priority under the no-fault act, and therefore, the insurer responsible for providing plaintiff's PIP benefits.

⁶ Compare *Choike v Detroit*, 94 Mich App 703, 707-708; 290 NW2d 58 (1980) (“The issue of a person's domicile (which Detroit Municipal Code s 2-1-1.2 makes the equivalent of residency) is principally a question of intent, and is resolved by reference to all the facts and circumstances of the particular case. The domicile of a person's family is only one factor to be considered, since it is possible for a person to be domiciled apart from his or her spouse and children.”).

Affirmed.

/s/ David H. Sawyer

/s/ Michael J. Riordan

/s/ James Robert Redford