STATE OF MICHIGAN

COURT OF APPEALS

ENTERPRISE LEASING COMPANY OF DETROIT d/b/a ENTERPRISE RENT-A-CAR, and TRAVELERS INSURANCE COMPANY,

Plaintiffs-Appellants,

v

MAJID SAKO and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendants-Appellees.

FOR PUBLICATION
December 29, 1998
9:35 a.m.

No. 204019
Oakland Circuit Court
LC No. 91-406634 CK

Before: Doctoroff, P.J., and Sawyer and Fitzgerald, JJ.

SAWYER, J.

This matter is again before us, following a remand to the trial court by the Supreme Court. We addressed this case in *Enterprise Leasing Co v Sako*, 207 Mich App 422; 526 NW2d 21 (1994), and the Supreme Court reviewed this case as a companion case to *State Farm Mutual Automobile Ins Co v Enterprise Leasing Co*, 452 Mich 25; 549 NW2d 345 (1996).

The facts of this case are set out in those prior opinions. Briefly, defendant Sako rented an automobile from plaintiff Enterprise and became involved in an automobile accident. Defendant State Farm is Sako's no-fault automobile insurance carrier, while Enterprise is self-insured, with plaintiff Travelers being Enterprise's excess carrier for claims over $500,000. As a result of the accident, suit was brought against Enterprise. Those suits were settled by Enterprise and Travelers for $593,321.79 and they commenced this action against Sako and State Farm, seeking both indemnification and primary coverage by State Farm.

Following the remand by the Supreme Court, the trial court granted summary disposition in favor of defendants, concluding that Enterprise could not limit the amount of its liability, and also rejected its indemnity claim against Sako. It is those rulings which are now before this Court.

We first consider whether State Farm is directly liable for payment of a portion of the judgment. In the State Farm policy, State Farm provided coverage for Sako for use of a

i.e., the full value of Enterprise's assets. Accordingly, in light of this discussion, we decline to address the merits of the indemnity issue.

Affirmed. Defendants may tax costs.

/s/ David H. Sawyer
/s/ Martin M. Doctoroff
/s/ E. Thomas Fitzgerald

[1] We note that, subsequent to the accident involved in the case at bar, the owner liability statute was amended to limit the liability of a vehicle lessor. MCL 257.401; MSA 9.2101.

[2] We are assuming that Enterprise is sufficiently solvent to pay the settlement in this case. Because we hold that, as a self-insurer, Enterprise is liable to the full value of its assets, that in essence represents the "policy limits" of its self-insurance. Therefore, State Farm's excess coverage would be excess to that amount. Accordingly, if Enterprise were insolvent, State Farm's coverage would apply to the amount above which Enterprise was able to pay.