STATE OF MICHIGAN

COURT OF APPEALS

AUTO OWNERS INSURANCE COMPANY, subrogee of RANDAL L. VANDERWAL and GINNY VANDERWAL,

Plaintiff-Appellant,

-v- No. 90026

CORDUROY RUBBER COMPANY, CADILLAC MOLDED RUBBER COMPANY, CORDUROY RUBBER COMPANY EMPLOYEE BENEFIT PLAN, and CORDUROY RUBBER COMPANY EMPLOYEE BENEFIT TRUST & VOLUNTARY EMPLOYMENT BENEFIT ASSOCIATION,

Defendants-Appellees.

_____/

BEFORE: D.F. Walsh, P.J., and H. Hood and R.J. Taylor*, JJ.

PER CURIAM

Plaintiff appeals by right from an order of the trial judge denying plaintiff's motion for summary disposition and granting defendants' cross-motion for summary disposition. We affirm.

In April, 1984, Randal L. Vanderwal and his wife, Ginny Vanderwal, were injured in an automobile accident. The Vanderwals were insured under an automobile no-fault insurance policy issued by plaintiff. Plaintiff's policy contained a coordination-of-benefits clause, MCL 500.3109a; MSA 24.13109(1), which provided that no-fault benefits would be reduced by benefits received by the insured from any health care plan. Plaintiff paid the Vanderwals' medical expenses.

The Vanderwals were also participants in a self-insured group health insurance plan through Mr. Vanderwal's employer, defendant Cadillac Molded Rubber Company, a subsidiary of defendant Corduroy Rubber Company. Cadillac's insurance policy contained a clause which stated that benefits were not payable under the plan for injuries received in accidents involving a car for which a no-fault insurance policy was in effect.

*Circuit judge, sitting on the Court of Appeals by assignment.

After plaintiff paid the Vanderwals' medical expenses, plaintiff filed suit against defendant, seeking reimbursement. Auto Club Ins Ass'n v Frederick & Herrud, Inc, 145 Mich App 722; 377 NW2d 902 (1985); see Federal Kemper Ins Co v Health Ins Administration, Inc, 424 Mich 537; 383 NW2d 590 (1986). Both parties filed motions for summary disposition, MCR 2.116(C)(10). Defendants claimed that they were not liable to plaintiff because of the exclusionary provision in Cadillac's insurance policy. Defendants also claimed that all state laws relating to employee benefit plans were preempted by the Federal Employee Retirement Income Security Act (ERISA). The trial judge ruled that defendants' clause was an exclusionary clause and excluded coverage for injuries arising out of an automobile accident. The trial judge also ruled that federal law preempted plaintiff's action.

We find that plaintiff's action is preempted by federal law. The present issue was squarely addressed in State Farm Mutual Automobile Ins Co v C A Muer Corp, 154 Mich App 330; ___ NW2d ___ (1986). We note that the parties did not have the benefit of that decision at the time they submitted their briefs on appeal. Nonetheless, we agree with the reasoning and result reached by that panel. Given our disposition of the preemption issue, we need not consider plaintiff's remaining arguments on appeal.

AFFIRMED.

/s/ Daniel F. Walsh
/s/ Harold Hood
/s/ Ronald J. Taylor