

STATE OF MICHIGAN  
COURT OF APPEALS

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GARY S. ADAMS and LOUISE NORMA ADAMS,

Plaintiffs-Appellees,

v

PRUDENTIAL PROPERTY AND CASUALTY  
INSURANCE COMPANY and FARM BUREAL  
GENERAL INSURANCE COMPANY,

Defendant-Appellant.

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Before: MacKenzie, P.J., and Weaver and E. A. Quinnell,\* JJ.

PER CURIAM

Defendants appeal as of right from the trial court's denial of summary disposition in favor of the defendant insurers. We reverse.

The clear and unambiguous exclusionary language concerning recovery of uninsured motorist benefits under plaintiffs' two insurance policies is almost identical to the language of the exclusionary clause contained in Michigan Mutual Liability Co v Karsten, 13 Mich App 46, 49; 163 NW2d 670 (1968), lv den 381 Mich 792 (1968). In Karsten, this Court agreed with the lower court that the insured was only forbidden to settle with a "person who might be legally responsible for the actions of [the] owner or operator of the uninsured vehicle," but that the insured was not precluded from settling with an insured joint tortfeasor. Id at 49-50.

The Karsten panel's conclusion indicates that the policy's exclusionary language would have precluded a claim of uninsured motorist benefits if settlement had been made with a person whose liability was dependent on the actions of the uninsured motorist. Here, it is apparent that the dramshop owners with whom plaintiffs settled were persons "legally responsible" for the conduct of an uninsured motorist within the meaning of Karsten, since Michigan's dramshop act discloses that liability

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

imposed on a dramshop owner is entirely dependent upon the conduct and liability of the intoxicated tortfeasor. MCL 436.22(4), (7); MSA 18.993(4),(7). Therefore the exclusionary clauses contained in plaintiffs' policies of insurance precluded a claim of uninsured motorist benefits.

Because the language of Karsten was clearly applicable to this case, it would have been impossible for plaintiffs to support their claim of uninsured motorist benefits at trial. Accordingly, there existed no genuine issue of material fact, and defendants were entitled to summary disposition as a matter of law. MCR 2.115(C)(10); Bardoni v Kim, 151 Mich App 169, 175; 390 NW2d 218 (1986), lv den 426 Mich 863 (1986).

Reversed.

/s/ Barbara B. MacKenzie  
/s/ Elizabeth A. Weaver  
/s/ Edward A. Quinnell