

STATE OF MICHIGAN
COURT OF APPEALS

CONTINENTAL INSURANCE COMPANY,

Plaintiff-Appellee,

v

No. 108397

MICHIGAN CATASTROPHIC CLAIMS
ASSOCIATION,

Defendant-Appellant.

Before: Shepherd, P.J., and Doctoroff and T. Gillespie,* JJ.

PER CURIAM.

Defendant appeals as of right the April 8, 1988, denial of its motion for summary disposition and the grant of plaintiff's cross motion. The trial court found that defendant was required to indemnify plaintiff for losses in excess of \$250,000 incurred in connection with a policy of insurance issued to a non-Michigan resident. We reverse.

The facts are not in dispute. On August 21, 1983, Beatrice Barbel, a California resident, was involved in an automobile accident in Michigan which rendered her a quadriplegic. Beatrice Barbel was insured under her husband's policy, which had been written by plaintiff and which covered three vehicles which he owned. Plaintiff paid Beatrice Barbel Michigan no-fault benefits pursuant to MCL 500.3163; MSA 24.13163. Once the total sums of payment exceeded \$250,000, plaintiff filed a claim of reimbursement for "ultimate loss" as defined by MCL 500.3104(2); MSA 24.13104(2). Defendant denied plaintiff's claim pursuant to its plan of operation which precludes reimbursement to insurers for claims paid to out-of-state residents. It is undisputed that plaintiff is an insurer engaged in writing insurance in the State of Michigan.

In In re Certified Question, ___ Mich ___; ___ NW2d ___ (1989), the Supreme Court held that the no fault act does not

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

require the Michigan Catastrophic Claims Association to indemnify its member insurers for losses paid to insureds who are not considered residents of this state. The Supreme Court noted that the term "resident" referred not only to those insureds who actually live within the state and who must, therefore, purchase no fault automobile insurance policies written in this state which provide the compulsory security of the requirements of MCL 500.3101(1); MSA 24.13101(1) for the owners or registrants of motor vehicles required to be registered in the state, but also the term "resident" refers to certain insureds who do not live within the state, but who are nonetheless required to register and, thus, insure their vehicles in this state.

Since Beatrice Barbel is not a resident of this state as the Supreme Court has interpreted that term in the context of the no-fault act, defendant is not required to indemnify plaintiff for losses paid by plaintiff to her.

Reversed.

s/John H. Shepherd
s/Martin M. Doctoroff
s/Tyrone Gillespie