

STATE OF MICHIGAN
COURT OF APPEALS

AMICA MUTUAL INSURANCE COMPANY,

Plaintiff-Appellee/
Cross-Appellant,

v

No. 109944

ALLSTATE INSURANCE COMPANY,

Defendant-Appellant/
Cross-Appellee,

and

AUTO CLUB INSURANCE ASSOCIATION,

Defendant-Appellee/
Cross-Appellee.

Before: Doctoroff, P.J., and Shepherd and McDonald, JJ.

PER CURIAM.

Defendant Allstate Insurance Company (Allstate) appeals from the trial court's order granting summary disposition against it and awarding plaintiff \$63,678. Plaintiff cross-appeals the trial court's denial of its motion for summary disposition against defendant Auto Club Insurance Association (ACIA).

Plaintiff is the subrogor to the rights of Michael Beal. Beal was injured in an automobile accident while a passenger of an automobile. Plaintiff is the insurer of the owner of the vehicle in which Beal was riding. Plaintiff paid Beal's claim for his injuries and now seeks reimbursement from defendants. Defendant Allstate is the insurer of Beal's sister Betty Hindman. Defendant ACIA is the insurer of Beal's other sister, Martha Wells.

Michigan's No Fault Insurance Act provides for a method by which insurers are prioritized in terms of which insurer will pay benefits when there are several possible applicable policies. MCL 500.3114; MSA 24.13114, provides that an injured person must first seek benefits from his own insurer or the insurer of a

relative domiciled in the same household prior to seeking benefits from the insurer of other persons involved in the accident. See also Shinabarger v Citizens Ins Co, 90 Mich App 307, 311; 282 NW2d 301 (1979), lv den 407 Mich 894 (1979).

I Michael Beal did not have an insured automobile at the time of the accident. Furthermore, Beal was in the process of relocating to the Detroit area at the time of the accident and was staying with his two sisters who lived in separate residences. The issue in this case is, where was Beal domiciled at the time of the accident?

The Michigan Supreme Court in Workman v DAIE; 404 Mich 477; 274 NW2d 373 (1979), articulated four factors which are relevant to a determination of whether a person is domiciled in the same household as the insured: 1) the subjective or declared intent of the person to remain indefinitely or permanently, 2) the formality or informality of the relationship between the person and the insured, 3) whether the place where the person lives is in the same house of the insured, and 4) the existence of another place of lodging for the person. Workman, supra, pp 496-497. This Court has found several other factors to be relevant in determining the domicile of an individual, such as: 1) the person's mailing address, 2) whether the person maintains possessions at the insured's home, 3) whether the insured's address appears on the person's driver's license and other documents, 4) whether a bedroom is maintained for the person at the insured's home, and 5) whether the party dependent upon the insured for financial support or assistance. Dairyland Ins Co v Auto Owners Ins Co, 123 Mich App 675, 682; 333 NW2d 322 (1983).

Prior to December 26, 1985, Michael Beal lived in Kalamazoo, Michigan. Beal shared an apartment with a friend. On December 26, 1985, Beal packed a suitcase full of his clothes and came to Detroit. It was Beal's intent to move to Detroit to work at a construction job which he had been offered. Beal intended

to find an apartment to live in permanently but stayed, alternately, in the homes of his sisters for the ten days preceding the automobile accident.

Both Hindman and Wells testified that Beal stayed at each of their homes off and on during the ten-day period. Neither could remember exactly how many days Beal had stayed at their home. Both stated that this living arrangement would have been continued indefinitely until Beal found an apartment.

When Beal came to Detroit he left all of his possessions, except for his clothing, in Kalamazoo. Beal's roommate in Kalamazoo had taken over Beal's rent payments. There was no evidence that Beal had changed his mailing address or driver's license address from Kalamazoo to either of his sisters' homes. Neither one of Beal's sisters maintained a separate bedroom for Beal. While at Hindman's Beal slept wherever a bed was available. While at Wells' he slept on a mattress in his nephew's room. It does not appear that Beal was financially dependent on either of his sisters. Wells had helped him get the construction job. Hindman got him a job in a 7-11 store to carry him over until the construction job began.

On the basis of the foregoing facts we cannot say that Beal was domiciled with either one of his sisters. Instead, we find that Beal was merely visiting both of his sisters temporarily.

Therefore, we conclude that the trial court erred in granting summary disposition against defendant Allstate. We find the trial court properly denied summary disposition against defendant ACIA. We remand for imposition of summary disposition in favor of both defendants against plaintiff, i.e., for dismissal of plaintiff's complaint.

Affirmed in part, reversed in part. Remanded. We do not retain jurisdiction.

/s/ Martin M. Doctoroff
/s/ John H. Shepherd
/s/ Gary R. McDonald