STATE OF MICHIGAN

COURT OF APPEALS

NICHOLAS P. PAGOTELIS and JESSIE J. PAGOTELIS,

Plaintiffs-Appellees,

v No. 112858

AETNA CASUALTY & SURETY COMPANY,

Defendant-Appellant.

Before: Michael J. Kelly, P.J., and Wahls and Sawyer, JJ.

PER CURIAM.

Defendant appeals by right from a May 27, 1988, Jackson Circuit Court judgement entered on a jury verdict for plaintiffs in the amount of $250,000. The issues at trial involved interpretation of the "non-owned automobile" coverage in Aetna's policy of insurance. We affirm.

Since the certificate of title had not been transferred to plaintiff, and plaintiff did not have exclusive use of the motor vehicle for a period greater than 30 days, the trial court properly found that plaintiff was not the owner of the motor vehicle. See Laskowski v State Farm Ins, 171 Mich App 317; 429 NW2d 887 (1988), lv den 433 Mich 914 (1989), and cases there cited; MCL 257.37; MSA 9.1837. Also, the trial court's finding that the motor vehicle was not furnished for the regular use of plaintiff was not clearly erroneous. See Pritts v J I Case Co, 108 Mich App 22, 29; 310 NW2d 261 (1981), lv den 413 Mich 909 (1982). Since reasonable jurors could disagree on whether plaintiff was using the motor vehicle in the "automobile business," the trial court properly denied defendant's motion for directed verdict on this issue. See Feaheny v Caldwell, 175 Mich App 291, 299-301; 437 NW2d 358 (1989), lv den 434 Mich 862 (1990). The trial court properly submitted to the jury the issue

of whether plaintiff was a "resident" within the meaning of the policy under the circumstances of this case on instructions that the term resident was not defined in the policy, and that if they found the term ambiguous under the circumstances they should construe it against defendant. See Auto Club Ins v DeLagarza, 433 Mich 208, 213-215; 444 NW2d 803 (1989); Clark v Hacker, 345 Mich 751, 756-758 (1956). Finally, since most of the evidence presented on the issue of residency focused at the time of the accident, and the remaining evidence merely showed that circumstances existing at the time of the accident were not unusual, the trial court's failure to instruct the jury that they must determine residency at the time of the accident does not require reversal. MCR 2.613(A).

Affirmed.

/s/ Michael J. Kelly
/s/ Myron H. Wahls
/s/ David H. Sawyer