

STATE OF MICHIGAN
COURT OF APPEALS

JAMES P. WALKER, Personal
Representative of the ESTATE OF
MARK ANTHONY WALKER, Deceased,

Plaintiff-Appellee,

v

KURT ALLEN MIEHLKE,

Defendant,

and

AAA MICHIGAN,

Garnishee Defendant-
Appellant.

UNPUBLISHED
July 14, 1994

No. 146903
LC No. 86-085702 NI

Before: Gribbs, P.J., and Reilly and T.L. Brown,* JJ.

PER CURIAM.

Garnishee-defendant appeals as of right from the circuit court order that granted plaintiff's motion for summary disposition. We reverse.

A court's function is to enforce an insurance policy in accordance with the parties' agreement. Fragner v American Community Mutual Ins Co, 199 Mich App 537, 542-543; 502 NW2d 350 (1993). Here, in construing the scope of third-party liability coverage under the no-fault automobile insurance policy at issue, the trial court erred in relying on the definition of "Insured Motor Vehicle" found in Part II of the policy, inasmuch as that definition expressly applies only to Part II, which does not govern the scope of third-party liability coverage.

Under the policy, the scope of third-party liability coverage is determined by whether the vehicle in question, the Buick Skylark, is an "Insured Car" as defined in the policy. Here, it is undisputed that the Skylark is not described on the Declaration Certificate, nor was it a "replacement" or "temporary substitute" for a described vehicle. Furthermore, the deposition testimony of James and Kurt Miehle establishes that, at a minimum, the Skylark was furnished for the "frequent or regular use" of Kurt Miehle, thereby disqualifying it as an "Other Car." State Farm Mutual Automobile Ins Co v Burbank, 190 Mich App 93, 97; 475 NW2d 399 (1991). Accordingly, the Skylark is not an "Insured Car" as defined in the policy and coverage for third-party liability arising out of the ownership, maintenance or use of the Skylark does not exist. Therefore, the trial court erred in granting plaintiff's motion for summary disposition and in denying defendant's motion.

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

Reversed.

/s/ Roman S. Gibbs
/s/ Maureen Pulte Reilly
/s/ Thomas L. Brown