STATE OF MICHIGAN

COURT OF APPEALS

MAR 28 1986

DEBORAH LYNN BRASHER,

Plaintiff-Appellant,

v No. 85688

AUTO CLUB INSURANCE ASSOCIATION,
a/k/a DETROIT AUTOMOBILE INTER-
INSURANCE EXCHANGE,

Defendant/Cross-Plaintiff,

and

STATE FARM FIRE AND CASUALTY,

Defendant/Cross-Plaintiff
Appellee,

and

LIBERTY MUTUAL INSURANCE COMPANY,

Defendant/Cross-Defendant-
Appellant.

BEFORE: MacKenzie, P.J., W.P. Cynar and G.T. Martin*, JJ

PER CURIAM

Auto Club Insurance Association and State Farm Fire and Casualty Insurance Company initiated a third-party action against appellant Liberty Mutual Insurance Company for contribution of no-fault benefits they paid to plaintiff as the result of injuries sustained in an automobile-pedestrian accident. The trial court granted summary judgment and entered a judgment in favor of Auto Club and State Farm. Liberty appeals as of right. We reverse.

The accident in question occurred at the intersection of Woodward and Alexandrine in Detroit. Albert Philpotts, who was insured by Auto Club, was driving south on Woodward and entered the intersection at Alexandrine. A vehicle driven by Maureen Daly and insured by State Farm struck Philpotts' vehicle as Daly entered the intersection while driving westbound on Alexandrine. After the collision, Philpotts' vehicle veered in a

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*Retired Circuit Judge, sitting on the Court of Appeals by assignment

westerly direction and struck plaintiff, who was walking on a sidewalk. Daly's vehicle veered south and struck a vehicle driven by Eugene Ellis, which was facing northbound on Woodward and was stopped for the traffic signal at Alexandrine. Ellis' vehicle was insured by Liberty.

Auto Club and State Farm commenced their third-party action against Liberty for contribution of no-fault benefits pursuant to MCL 500.3115(1); MSA 24.13115(1), which addresses claims by persons accidentally injured while not occupying a vehicle against insurers of owners and operators of "motor vehicles involved in the accident." The trial court ruled that Ellis' vehicle was "involved in the accident" for purposes of §3115, and accordingly ordered Liberty to pay a pro rata share of the no-fault benefits paid to plaintiff. On appeal, Liberty contends that this ruling was erroneous. We agree.

This Court has on two occasions held on facts akin to the circumstances of this case that in order for a vehicle to be "involved in the accident" within the meaning of MCL 500.3115(1); MSA 24.13115(1), there must be some activity, with respect to the vehicle, which somehow contributes to the happening of the accident. See Stonewall Ins Group v Farmers Insurance Group, 128 Mich App 307; 340 NW2d 71 (1983) and Bachman v Progressive Casualty Insurance Co, 135 Mich App 641; 354 NW2d 292 (1984).

In the instant case, Ellis' vehicle clearly was not involved in the activity contributing to the happening of the accident. Ellis was merely stopped at the red light when one of the vehicles involved in the original collision veered and struck his vehicle. Thus, under the holdings of Stonewall and Bachman, the trial court's conclusion of law that Ellis was involved in the accident within the meaning of §3115 was erroneous. The order and judgment are set aside and the case remanded for entry of an order of summary judgment in favor of Liberty.

Reversed and remanded.

/s/ Barbara B. MacKenzie
/s/ Walter P. Cynar
/s/ George T. Martin