



Michigan Court of Appeals Rules that MCCA Is Not Required to Indemnify a No Fault Insurer for PIP Benefits Paid Over Statutory Threshold

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On June 22, 2010, the Michigan Court of Appeals handed down a published opinion unanimously affirming the trial court's decision that the Michigan Catastrophic Claims Association (MCCA) is not required to indemnify a No Fault insurer for PIP benefits paid over the statutory threshold. *United Services Automobile Association v Michigan Catastrophic Claims Association* (No. 289579).

Plaintiff USAA sued MCCA to recover No Fault benefits that it paid on behalf of its insured, Raoul Farhat. Farhat grew up and lived in Michigan for a time, but was living and working in Florida in 1996 when he was injured in an automobile accident. Farhat owned property in Michigan, and USAA argued that he was required to register his LeBaron in Michigan because of his activity within Michigan. MCCA argued that Farhat was not a Michigan resident and was not required to register the LeBaron in Michigan.

After a detailed review of the facts and applicable statutory and case law, the Court of Appeals stated:

[T]here is no evidence in the record that the LeBaron, that was purchased, registered, titled, and garaged in Florida, was going to be driven in Michigan for any period of time in 1996 by Farhat, a nonresident who was living and working in Florida. Thus, Farhat's LeBaron was not required to be registered in Michigan. Because Farhat was a nonresident and the LeBaron was not required to be registered in Michigan, MCL 500.3101(1) does not apply. *In re Certified Question*, 433 Mich at 719-720, 723-724. Defendant need only indemnify an insurer under MCL 500.3104(2) where the insurer paid benefits pursuant to a policy written in Michigan that provided for the required security under MCL 500.3101(1) for a vehicle required to be registered in Michigan. *Id.* Thus, for all of these reasons, we conclude that defendant was not required to reimburse plaintiff.

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Slip Op., p. 6.

This case is important because of the clarity of its analysis that a No Fault insurer that pays PIP benefits that were not required to be paid under MCL 500.3101, *et seq.*, is not entitled to indemnification from the MCCA. No Fault insurers face the risk of exposure to attorney fees and penalty interest if they do not pay benefits that are owed and of being denied indemnification if they do pay benefits that are not owed.