



Hill v L.F. Transportation

General Litigation Practice Group

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On January 15, 2008, the Michigan Court of Appeals issued a published opinion in *Hill v L.F. Transportation and Auto-Owners Insurance Co.*, Docket No. 267959. Publication of the case means that it establishes binding precedent.

The case arose out of an automobile accident and a dispute over coverage. When the insurer for L.F. Transportation continued to deny coverage even after the court ruled that it owed coverage, plaintiff made a demand on Auto-Owners, which insured the vehicle plaintiff's decedent was driving, for uninsured motorist (UM) benefits. Plaintiff was awarded \$875,000 at arbitration of the UM claim. Auto-Owners successfully appealed this award on the basis that there was no entitlement to UM benefits because the court had already held that L.F. Transportation's insurer owed coverage. The UM award against Auto-Owners was reversed and Auto-Owners was additionally awarded costs of approximately \$85,000. resulted in a substantial settlement in Plaintiff's favor. The distribution of settlement funds, as approved by the trial court, did not include a distribution to Auto-Owners for the \$85,000 in costs. On appeal by Auto-Owners, the Michigan Court of Appeals concluded that the trial court should have allowed Auto-Owners to recover the costs awarded in the prior appeal from the proceeds of this wrongful death action: Although the wrongful death action was technically a separate one from the one in which Auto-Owners was awarded costs, it involved the same essential claim.

The case stands for the proposition that plaintiff could not "escape responsibility for paying costs in the prior action merely by choosing to commence a new action instead of continuing the old action."

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