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Court Clarifies Definition of 'Entering Into' Under Michigan No-Fault Act's Parked Vehicle Exception

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The Michigan Court of Appeals recently clarified the scope of "entering into" for people who are injured while entering into a motor vehicle and who are, thereafter, seeking Michigan personal protection insurance no-fault benefits.

In the underlying trial court case, *Williams v Pioneer State Mutual Insurance Company*, the plaintiff testified that she was intending to use her car to pick up her husband. Before entering the car, she noticed that several large branches fell from a tree onto the hood, damaging it. The plaintiff removed the branches, unlocked the car door, and "opened the door to get in." She testified that as she was "getting into the car," another branch fell from the tree, striking her in the head, and causing her physical injury.

"Under personal protection insurance, an insurer is liable to pay benefits for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle ... " (MCL 500.3105(1))

However, coverage for injuries that involve a parked vehicle is defined by the Michigan No-Fault Act's parked vehicle exception under MCL 500.3106(1), which provides for such coverage where only one of the following three circumstances exist:

1. The vehicle was parked in such a way as to cause unreasonable risk of the bodily injury which occurred.

2. [Except those cases involving workers' compensation], the injury was a direct result of physical contact with equipment permanently mounted on the vehicle, while the equipment was being operated or used, or property being lifted onto or lowered from the vehicle in the loading or unloading process.

3. [Except those cases involving workers' compensation], the injury was sustained by a person while occupying, entering into, or alighting from the vehicle.

The defendant insurer argued that there was no evidence that the plaintiff was "entering into" the vehicle at the time she was injured.

The appellate court disagreed, holding that "Michigan appellate courts have repeatedly held that once a plaintiff makes physical contact with a vehicle for the purpose of entering it, the process of 'entering into' has begun."

The defendant insurer, citing *Putkamer v Transamerica Ins Co of America*, 454 Mich 626, 628; 563 NW2d 683 (1997), argued that, even if the plaintiff was entering her car, her injury was not sufficiently causally connected to that entrance to have a "causal relationship to the parked motor vehicle that is more than incidental, fortuitous, or but for" to trigger no-fault benefits.

The court rejected this argument, stating that it has always found that if a plaintiff is injured while entering into a vehicle for transportational purposes, a sufficient causal relationship exists, regardless of the immediate cause of the injury.

The court ultimately held that the question is not whether a plaintiff is at "the wrong place at the wrong time," but rather whether a plaintiff was at that particular location at that time because she was entering her vehicle for transportational purposes.

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