

# Supreme Court Overturns Family Joyriding Exception to MCL 500.3113(a)

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In a recent decision, the Michigan Supreme Court held that any person who takes a vehicle contrary to a provision of the Michigan Penal Code, including its “joyriding” statutes, has taken the vehicle unlawfully, and is therefore precluded from receiving PIP benefits. Furthermore, the court determined that the use of the phrase “person” in MCL 500.3113(a) includes a family member who has taken a vehicle unlawfully.

MCL 500.3113(a) provides that a person is not entitled to PIP benefits if the “person was using a motor vehicle or motorcycle which he or she had taken unlawfully, unless the person reasonably believed that he or she was entitled to take and use the vehicle.”

In *Spectrum Health Hospitals v Farm Bureau Mutual Insurance Co of Michigan*, the Court rejected two distinct legal theories routinely used by claimants to avoid exclusion under MCL 500.3113(a). Specifically, the Court rejected the “chain of permissive use” theory and the “family joyriding exception.”

The “chain of permissive use” theory arises when a vehicle owner authorizes the automobile’s use by an individual, who in turn authorizes another person to use the vehicle. Under this theory, a vehicle owner is presumed to have allowed the end user to use the automobile, regardless of whether the owner had expressly forbidden the end user.

The Court concluded that this theory did not address whether the end user of a vehicle violated the Michigan Penal Code, including its “joyriding” statutes, by unlawfully taking a vehicle. As such, the Court held that the “chain of permissive use” theory was inconsistent with MCL 500.3113(a), and could therefore not be used by injured claimants to avoid exclusion under MCL 500.3113(a).

After dismissing the “chain of permissive use” theory, the Court addressed the “family joyriding exception,” which involves the unauthorized taking of a person’s motor vehicle by a family member who did not intend to steal it. Earlier case law held that the Legislature did not intend a relative’s “joyride” to be considered an unlawful taking under MCL 500.3113(a) because, “given that most legislators are parents and grandparents, they may have experienced children who used a family vehicle without permission and may have done so themselves.” Based on this reasoning, it was argued that “the Legislature did not truly intend to exclude teenagers who joyride in their relatives’ automobiles.”

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Expressly rejecting this argument, the Court held that the “family joyriding exception” has no basis in the language of MCL 500.3113(a), and therefore cannot be invoked by injured claimants to avoid exclusion under MCL 500.3113(a).

In light of the *Spectrum* decision, it is now clear that chain of permissive use and family joyriding claimants who unlawfully operator motor vehicles contrary to the Michigan Penal Code are excluded from coverage under the unlawful use provision of MCL 500.3113(a). Insurers should consider taking recorded statements from, or schedule an examination under oath of, the named insurer, owner of the vehicle, and/or the injured claimant, as it could potentially reveal that the claimant is excluded from benefits under MCL 500.3113(a).

For further information about this important decision or about Michigan's No-Fault Act, or if you have questions about how this recent ruling could affect your business, please contact the author of this Rapid Report or any member of Plunkett Cooney's Trucking and Transportation Practice Group.

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