

STATE OF MICHIGAN  
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

FARM BUREAU GENERAL INSURANCE  
COMPANY OF MICHIGAN,

Plaintiff,

vs.

PROGRESSIVE MICHIGAN INSURANCE  
COMPANY,

Defendant.

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Case No. 15-04759-CZB

HON. CHRISTOPHER P. YATES

OPINION AND ORDER GRANTING PLAINTIFF'S MOTION  
FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(10)

On November 24, 2014, Vern Sehl was walking along Beitner Street in Traverse City when a Ford 250 pickup truck hit and injured him. At the time of that collision, Sehl was a vagabond in a real sense, having moved out of his grandparents' home in order to pursue a nomadic existence in the idyllic Traverse City environs. Plaintiff Farm Bureau General Insurance Company of Michigan ("Farm Bureau") furnished first-party personal protection insurance ("PIP") benefits to Sehl under the Michigan No-Fault Act, MCL 500.3107(1), but Farm Bureau ultimately filed this action against Progressive Michigan Insurance Company ("Progressive") seeking a declaratory judgment that PIP benefits should be paid by Progressive, which provided insurance to Sehl's grandparents. Because Sehl remained "domiciled in the same household" as his grandparents as a matter of Michigan law despite his nomadic existence, see Grange Ins Co of Michigan v Lawrence, 494 Mich 475, 490-496 (2013), citing MCL 500.3114(1), the Court must award summary disposition to Farm Bureau under MCR 2.116(C)(10) and direct that Progressive pay Sehl's PIP benefits.

## I. Factual Background

Both sides have asked for summary disposition under MCR 2.116(C)(10). ““A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint”” and permits the Court to consider “the entire record in the light most favorable to the party opposing the motion, including affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties.” Corley v Detroit Bd of Educ, 470 Mich 274, 278 (2004). Because both sides have requested relief pursuant to MCR 2.116(C)(10), the Court shall briefly sketch the factual background of this dispute by considering the complete record developed by the competing insurance companies.

Beginning in the summer of 2012, Vern Sehl resided with his grandparents, Brian and Pam Lemmon, in their home at 1846 Sawyer Road in Traverse City. Sehl had his own room, in which he kept his personal belongings. Two years later, during the summer of 2014, Sehl moved out of his grandparents’ home and began living as a vagabond. Although Sehl continued to receive mail at his grandparents’ home and left some of his personal items at that location, he no longer stayed or slept at his grandparents’ house. Instead, he moved from place to place, occasionally staying at Art’s Auto Repair and Transmissions on Keystone Road in Traverse City. Nevertheless, the accident report for the collision involving Sehl and the pickup truck listed Sehl’s address as his grandparents’ house on Sawyer Road. See Plaintiff Farm Bureau’s Brief in Support of its Motion for Summary Disposition, Exhibit 1.

In the wake of the collision on November 24, 2014, Plaintiff Farm Bureau began paying PIP benefits for Vern Sehl in its capacity as the insurance provider for the driver who hit Sehl. But on May 26, 2015, Farm Bureau filed a complaint for declaratory judgment against Progressive, which insured Sehl’s grandparents. Farm Bureau alleged that, because Sehl was “domiciled in the same

household” as his grandparents at the time of the collision, Progressive had to pay PIP benefits for Sehl by dint of MCL 500.3114(1). With responsibility for PIP benefits hanging in the balance, both sides moved for summary disposition under MCR 2.116(C)(10). Consequently, the Court must now determine which insurance company must bear responsibility for paying PIP benefits for Sehl.

## II. Legal Analysis

“Summary disposition is appropriate under MCR 2.116(C)(10) if there is no genuine issue regarding any material fact and the moving party is entitled to judgment as a matter of law[.]” West v General Motors Corp, 469 Mich 177, 183 (2003), and such a “genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ.” Id. The parties agree that responsibility for Vern Sehl’s PIP benefits turns upon whether he was “domiciled in the same household” as his grandparents at the time of the collision, as contemplated by MCL 500.3114(1). Therefore, the Court simply must decide whether any genuine issue of material fact prevents resolution of that question on the record developed by the parties in support of their competing motions for summary disposition.

As luck would have it, our Supreme Court recently devoted substantial attention to the issue framed by the parties in this case. See Grange Ins, 494 Mich at 490-501. Significantly, our Supreme Court not only discussed the concept of being “domiciled in the same household” as the insured for purposes of MCL 500.3114(1), but also set forth a principle that dictates the outcome of this dispute: a person “may have only a single domicile at any one point in time that continues until the [person] acquires a different one.” Id. at 496. As our Supreme Court observed, for more than 165 years, “a person’s domicile has been defined to be ‘that place where a person has voluntarily fixed his abode

not for a mere special or temporary purpose, but with a present intention of making it his home, either permanently or for an indefinite or unlimited length of time.” See id. at 493. Applying that standard, Vern Sehl’s last domicile was his grandparents’ house because, after he left that location, he did not fix any other abode prior to the collision on November 24, 2014. And because Michigan law holds that “a man retains his domicile of origin [upon his birth] until he changes it, by acquiring another; and so each successive domicile continues, until changed by acquiring another[,]” see id. at 494, Sehl’s domicile remained at his grandparents’ house through the date of the collision because he did not acquire any other domicile prior to the collision.

The Court’s conclusion that Vern Sehl remained “domiciled” at his grandparents’ home finds support in the multi-factor test employed to determine the domicile of “young people departing from the parents’ home and establishing new domiciles as part of the normal transition to adulthood and independence.” Dairyland Ins Co v Auto-Owners Ins Co, 123 Mich App 675, 681 (1983). Relevant “indicia of domicile include such factors as whether the claimant continues to use his parents’ home as his mailing address, whether he maintains some possessions with his parents, whether he uses his parents’ address on his driver’s license or other documents, whether a room is maintained for [him] at the parents’ home, and whether the claimant is dependent upon the parents for support.” See id. at 682. To be sure, Sehl was 22 years old when he was hit on November 24, 2014, see Plaintiff Farm Bureau’s Brief in Support of its Motion for Summary Disposition, Exhibit 1, but the majority of the factors nonetheless suggest that he remained domiciled with his grandparents on that date. That is, Sehl continued to use his grandparents’ home as his mailing address, he kept some possessions at his grandparents’ house, and he used his grandparents’ address on his identification. Although Sehl no longer received financial support from his grandparents by the time of the collision, most of the

relevant factors militate in favor of a finding that Sehl was “domiciled in the same household” as his grandparents on the date of the collision. Thus, the Court concludes that Defendant Progressive, as opposed to Plaintiff Farm Bureau, must pay PIP benefits for Sehl.

### III. Conclusion

For all of the reasons set forth in this opinion, the Court shall grant summary disposition in favor of Plaintiff Farm Bureau and against Defendant Progressive pursuant to MCR 2.116(C)(10). Because Vern Sehl was “domiciled in the same household” as his grandparents at the time he was hit by a pickup truck on November 24, 2014, Farm Bureau is entitled to a declaratory judgment to the effect that Progressive must pay PIP benefits for Sehl. The Court invites Farm Bureau to submit a proposed declaratory judgment under the 7-day rule, see MCR 2.602(B)(3), on or before Monday, December 21, 2015.

IT IS SO ORDERED.

Dated: December 11, 2015



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HON. CHRISTOPHER P. YATES (P41017)  
Kent County Circuit Court Judge