

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

CITIZENS INSURANCE COMPANY OF
THE MIDWEST,

Plaintiff,

Case No. 14-01129-CZB

vs.

HON. CHRISTOPHER P. YATES

FARM BUREAU GENERAL INSURANCE
COMPANY OF MICHIGAN,

Defendant.

_____ /

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION

Stories of golf carts run amok are legion. In this case, 20-year-old Kayla Bardon invited her friends to spend an evening at her parents' house. Before the night ended, the family golf cart wound up in the mix, and James Ruyle drove the golf cart in a manner that caused injuries to Alycia Stanley. In 2012, Stanley filed a suit in Macomb County Circuit Court against Ruyle, Bardon, and Bardon's mother and stepfather, Michelle and Adam Sucura. Throughout that suit, Plaintiff Citizens Insurance Company of the Midwest ("Citizens") defended Ruyle under his father's insurance, see Complaint, ¶¶ 5, 11, while Defendant Farm Bureau General Insurance Company of Michigan ("Farm Bureau") furnished the defense for the Sucuras under a homeowners policy. In the fullness of time, the parties reached settlements with Stanley in Macomb County and Citizens made a payment of \$115,000 to Stanley on behalf of Ruyle as its insured. See Complaint, ¶ 11.

Much to the surprise of Defendant Farm Bureau and its insureds, *i.e.*, the Sucuras, Plaintiff Citizens then initiated this action in Kent County Circuit Court seeking recovery of the costs of its defense of Ruyle and the full amount of the settlement paid on behalf of Ruyle. Citizens asserts that

Farm Bureau owed a duty under the Sucuras' homeowners policy to defend and indemnify the golf-cart driver, Ruyle. See Complaint, ¶ 9. This claim is riddled with flaws, but the Court shall resolve the matter simply by granting summary disposition to Farm Bureau under MCR 2.116(C)(10) on the clearest bases for disposing of this misguided cost-shifting effort.

“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). “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. In this case, no genuine issue of material fact presents an impediment to resolution of the parties' insurance-coverage dispute, so the Court can resolve the matter by awarding summary disposition under MCR 2.116(C)(10) based upon the language of the homeowners policy issued to the Sucuras.

“An insurance policy is similar to any other contractual agreement, and, thus, the court's role is to ‘determine what the agreement was and effectuate the intent of the parties.’” Hunt v Drielick, 496 Mich 366, 372 (2014). Courts “‘employ a two-part analysis’ to determine the parties' intent.” Id. at 373. “First, it must be determined whether ‘the policy provides coverage’ . . . and, second, the court must ‘ascertain whether that coverage is negated by an exclusion.’” Id. Although the “‘insurer should bear the burden of proving an absence of coverage,’” id., and exclusions should be “‘strictly construed in favor of the insured[,]’” id., a court must “‘not hold an insurance company liable for a risk it did not assume,’” id., so “‘[c]lear and specific exclusions must be enforced[.]’” Id. Here, a clear and specific exclusion set forth in the Sucuras' homeowners policy plainly negates coverage for the golf-cart mishap at the Sucura residence.

The homeowners policy required Plaintiff Farm Bureau to defend and indemnify its insureds for liability related to bodily injury or property damage. See Brief in Support of Defendant’s Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit D (Homeowners Policy, Section II – Liability Coverage, at page 14 of 19). But Farm Bureau had no duty to defend or indemnify James Ruyle – the golf-cart driver – for two reasons. First, Ruyle was not an “insured” under the Sucuras’ homeowners policy.¹ As a stranger to that policy who paid no premiums for coverage, Ruyle cannot assert rights to defense and indemnification under that policy. Second, the language of the Sucuras’ homeowners policy excludes from coverage injuries “arising out of the ownership, maintenance, use, loading, or unloading of motor vehicles or all other motorized land conveyances, including mopeds and trailers[.]” See id., Exhibit D (Homeowners Policy, Section II - Exclusions, ¶ (1)(f)(1), at page 15 of 19). The homeowners policy identifies an exception that applies if injuries arise from the use of “a motorized golf cart when used to play golf on a golf course[.]” Id., Exhibit D (Homeowners Policy, Section II - Exclusions, ¶ (1)(f)(3), at page 15 of 19). Thus, it stands to reason that any injury arising from the operation of a golf cart when it is *not* being used to play golf on a golf course, as in this instance, must be excluded under the terms of the Sucuras’ homeowners policy.² In other words, the policy contains a clear and specific exclusion that bars coverage.

¹ James Ruyle could only be classified as an “insured” if he was using “any vehicle to which this policy applies[.]” see Brief in Support of Defendant’s Motion for Summary Disposition Under MCR 2.116(C)(10), Exhibit D (Homeowners Policy, Definitions, at page 2 of 19), but the golf cart cannot possibly be characterized as a covered vehicle under the Sucuras’ homeowners policy. See id., Exhibit D (Homeowners Policy, Section I - Property Coverages, Coverage C - Personal Property, Property Not Covered, ¶ 1, at page 5 of 19).

² The Court rejects Plaintiff Citizens’s effort to avoid the clear exclusion from coverage by recasting the golf cart as a “utility vehicle.” Indeed, Citizens consistently described the vehicle as a golf cart in its own complaint. See Complaint, ¶¶ 6-8.

The parties to the Macomb County Circuit Court case and their respective insurers made wise decisions in resolving Alycia Stanley's claims and taking responsibility for both the defense and the indemnification of their own insureds. The lawsuit here, which marks a strange departure from that course, cannot survive Defendant Farm Bureau's motion for summary disposition pursuant to MCR 2.116(C)(10). Therefore, the Court must bring this dispute to a close by declaring that Farm Bureau owed no duty to defend or indemnify James Ruyle in the Macomb County case, so Plaintiff Citizens has no right to indemnification from Farm Bureau in this Court.

IT IS SO ORDERED.

This is a final order that resolves the last pending claim and closes the case.

Dated: October 22 , 2014



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