

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

FARM BUREAU GENERAL INSURANCE
COMPANY, a Michigan corporation, a/s/o
Silverleaf Condominium Association and Alice
Clingan; and SILVERLEAF CONDOMINIUM
ASSOCIATION,

Plaintiffs,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

Case No. 14-09209-CBB

HON. CHRISTOPHER P. YATES

OPINION AND ORDER DENYING DEFENDANT'S MOTION FOR
SUMMARY DISPOSITION UNDER MCR 2.116(C)(8) AND (10)

On October 1, 2013, Michelle Cooper's vehicle caught fire in the garage at the condominium complex where she resided. That blaze ultimately caused extensive damage to common areas of the condominium complex. In the wake of the fire, Plaintiff Farm Bureau General Insurance Company ("Farm Bureau") paid for a portion of the common-area loss, and Plaintiff Silverleaf Condominium Association ("Silverleaf") paid for the common-area loss that Farm Bureau did not cover. Both of them then filed suit against Defendant State Farm Mutual Insurance Company ("State Farm"), which insured Cooper's vehicle. State Farm responded by moving for summary disposition under MCR 2.116(C)(8) and (10), invoking the so-called "household exclusion" in the Michigan No-Fault Act, MCL 500.3123(1)(b). The Court concludes that State Farm may be required in the first instance to pay for damages to the common areas and the "household exclusion" does not foreclose that result, so the Court must deny State Farm's motion for summary disposition.

I. Factual Background

“A motion under MCR 2.116(C)(8) tests the legal sufficiency of the complaint[.]” Maiden v Rozwood, 461 Mich 109, 119 (1999), so the Court must limit itself to the allegations set forth in the complaint when addressing such a request for relief. “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 Board of Education, 470 Mich 274, 278 (2004). Because Defendant State Farm has requested relief on both of these grounds, the Court shall first consider the complaint and then turn to the evidence in the record.

By all accounts, the fire that led to this case began in a garage at the Silverleaf condominium complex. For purposes of its motion for summary disposition, Defendant State Farm has conceded that the starting point of the fire was a vehicle owned by condominium resident Michelle Cooper and insured by State Farm.¹ As the fire spread, it caused substantial damage to the common areas of the condominium complex. This damage – as opposed to damage to individual condominium units or Cooper’s vehicle – forms the basis for the dispute that the Court must resolve. In simple terms, the parties disagree about whether damage to the common areas falls outside Cooper’s coverage under her automobile-insurance policy by dint of the “household exclusion” in the Michigan No-Fault Act, MCL 500.3123(1)(b). Thus, the Court’s task primarily involves application of the No-Fault Act to essentially undisputed facts in order to decide whether State Farm may avail itself of the “household exclusion,” and thereby obtain summary disposition under MCR 2.116(C)(8) and (10).

¹ The Court readily understands that if the case proceeds to trial, Defendant State Farm will contend that Michelle Cooper’s vehicle was not the origin of the fire. Indeed, nothing in this opinion precludes State Farm from pursuing that theory at trial.

II. Legal Analysis

A motion for summary disposition pursuant to MCR 2.116(C)(8) should be “granted if ‘[t]he opposing party has failed to state a claim on which relief can be granted.’” State ex rel Gurganus v CVS Caremark Corp, 496 Mich 45, 62-63 (2014). In reviewing such a motion, the Court “must accept all factual allegations in the complaint as true,” id. at 63, and grant relief only if “the claims alleged are ‘so clearly unenforceable as a matter of law that no factual development could possibly justify recovery.’” Maiden, 461 Mich at 119. In contrast, a motion for summary disposition under MCR 2.116(C)(10) should be granted “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). 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. Applying all of these familiar standards, the Court shall turn to Defendant State Farm’s arguments predicated upon provisions of the Michigan No-Fault Act.

According to the Michigan No-Fault Act, an insurer must pay property protection benefits “for accidental damage to tangible property arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle” in most instances. See MCL 500.3121(1). Our Court of Appeals has held that a spontaneous vehicle fire producing property damage falls within the ambit of the No-Fault Act, see, e.g., Cincinnati Ins Co v Pennsylvania Gen Ins Co, 209 Mich App 379, 383 (1995); State Farm Fire & Casualty Co v Auto-Club Ins Ass’n, No 194426, slip op at 3 (Mich App June 9, 1998) (unpublished decision), so Defendant State Farm had an obligation to furnish property protection benefits for the loss resulting from the fire started by Michelle Cooper’s vehicle. Indeed, State Farm has not even contested that point in moving for summary disposition.

Instead, Defendant State Farm has repaired to the “household exclusion” in the No-Fault Act, which states:

Damage to the following kinds of property is excluded from property protection insurance benefits:

* * * * *

Property owned by a person named in a property protection insurance policy, the person’s spouse or a relative of either domiciled in the same household, if the person named, the person’s spouse, or the relative was the owner, registrant, or operator of a vehicle involved in the motor vehicle accident out of which the property damage arose.

See MCL 500.3123(1)(b). This provision effectively allocates financial responsibility between the homeowner’s insurer and the vehicle’s insurer when an “accident” involving a motor vehicle results in damage to both the vehicle itself and the premises of the vehicle’s insured. See Cincinnati Ins, 209 Mich App at 380-381. Specifically, the vehicle’s insurer must pay for the damage to the vehicle, whereas the homeowner’s insurer must pay for the damage to the premises. Therefore, in the instant case, the “household exclusion” would require Michelle Cooper’s no-fault insurance provider to pay for the damage to her car, but would excuse her no-fault insurance provider from paying for damage to Cooper’s own condominium unit because that loss would be borne by her homeowner’s insurer.

But Defendant State Farm’s motion for summary disposition relies upon an extension of the “household exclusion” that Michigan law has never before recognized. That is, State Farm contends that the “household exclusion” not only excuses it from paying for any damage to Cooper’s personal condominium unit, but also excuses it from paying for any damage to the common areas of Cooper’s condominium complex because Cooper was a part owner of the common areas at the time of the fire. This, in the Court’s view, is a bridge too far.

Under Michigan law, a condominium development is divided into two parts: individual units and common elements. “Subsection 4(3) of the [Michigan Condominium Act] defines condominium unit as ‘that portion of the condominium project designed and intended for separate ownership and use[.]’” See Rossow v Brentwood Farms Development, Inc, 251 Mich App 652, 661 (2002), quoting MCL 559.104(3). ““Common elements” means the portions of the condominium project other than the condominium units.” The Reserve at Heritage Village Ass’n v Warren Financial Acquisition, LLC, 305 Mich App 92, 115 (2014), quoting MCL 559.103(7). The Michigan Condominium Act provides that “[e]ach co-owner has an exclusive right to his condominium unit and has such rights to share with other co-owners the common elements of the condominium project as are designated by the master deed.” Paris Meadows, LLC v City of Kentwood, 287 Mich App 136, 143 (2010), quoting MCL 559.163. In addition, the Michigan Condominium Act defines an “association of co-owners” as “the person designated in the condominium documents to administer the condominium project[.]” see MCL 559.103(4), which in most instances takes the form of a broad condominium association, rather than a discrete person. See, e.g., Federal Nat’l Mortgage Ass’n v Lagoons Forest Condominium Ass’n, 305 Mich App 258, 265 (2014). Ordinarily, “a condominium association [is] made up of co-owners of units” in the condominium development. See, e.g., Windemere Commons I Ass’n v O’Brien, 269 Mich App 681, 682 (2006). Although a “master deed may allocate to each condominium unit an undivided interest in the common elements proportionate to its percentage of value assigned,” see MCL 559.137, condominium unit owners simply have the “rights to share with other co-owners the common elements of the condominium project[.]” see MCL 559.163, rather than full ownership rights of the common elements.²

² As our Court of Appeals has observed, “the individual condominium units are owned and taxed as individual units plus their inseparable and appurtenant shares of the common elements.” Paris Meadows, 287 Mich App at 149, citing MCL 559.161.

The “household exclusion” in the No-Fault Act only excludes property protection insurance benefits from coverage under the vehicle-insurance policy if the damaged property was “owned by a person named in a property protection insurance policy” and “the person named . . . was the owner . . . of a vehicle involved in the motor vehicle accident out-of which the property damage arose.” See MCL 500.3123(1)(b). Michelle Cooper owned the “vehicle involved in the motor vehicle accident” that caused the fire damage to the common elements of the condominium project, but the damaged common elements were not owned by Cooper, so the “household exclusion” has no application with respect to the common elements. Therefore, the Court must deny summary disposition to Defendant State Farm.

III. Conclusion

For all of the reasons set forth in this opinion, Defendant State Farm’s request for summary disposition pursuant to MCR 2.116(C)(8) and (10) is denied. The “household exclusion” prescribed by the Michigan No-Fault Act, MCL 500.3123(1)(b), does not apply to damage to common elements of the condominium complex. Thus, the Court shall schedule this matter for a settlement conference and then a trial.

IT IS SO ORDERED.

Dated: February 24, 2016



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