

# no-fault newslines

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

## **Tangible Things of Economic Value: Old-Age Social Security Benefits Are To Be Considered in a Calculation of Survivors' Loss Benefits under the Michigan No Fault Act**

By: Renee T. Townsend

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### **SECRET WARDLE NOTES**

MCL 500.3108(1) states that survivors' loss benefits are payable for "a loss... of contributions of tangible things of economic value... that dependents of the deceased... would have received for support during their dependency from the deceased if the deceased had not suffered the accidental bodily injury causing death..."

The plain language of MCL 500.3108(1) encompasses old-age social security benefits as "tangible things of economic value," because those benefits were capable of being valued, had a "rate of worth," were distributed on a monthly basis, and had a predetermined monthly value.

The Court in *Scugoza* concluded that old-age social security benefits are to be included in the calculation of survivors' loss benefits under the Michigan No Fault Act.

The Court did not decide whether the old-age social security benefits are subject to set-offs, or whether set-offs would be appropriate.

\* \* \* \*

On July 5, 2016, the Court of Appeals released for publication its unanimous decision in *Scugoza v Metro Direct Prop and Cas Ins Co*, \_\_ Mich App \_\_ (2016) (Docket No. 327076). The question presented in this first-party no-fault case was narrow: whether old-age social security benefits payable pursuant to 42 USC 402 are "tangible things of economic value" as that term is used in MCL 500.3108(1) and therefore can be considered in a calculation of survivors' loss benefits under the No Fault Act.

In *Scugoza*, the plaintiff's husband, Nicholas, was killed in a 2013 motor vehicle accident. At the time of his death, Nicholas was entitled to \$1,611.90 per month in old-age social security benefits. Plaintiff sought survivors' loss benefits pursuant to MCL 500.3108 from her husband's no-fault insurer, which included a claim for those old-age social security benefits. Defendant insurer did not include the old-age

social security benefits in its survivors' loss payments to Plaintiff, so she filed suit and moved for partial summary disposition.

Pursuant to MCL 500.3108(1), survivors' loss benefits are payable for "a loss... of contributions of tangible things of economic value... that dependents of the deceased... would have received for support during their dependency from the deceased if the deceased had not suffered the accidental bodily injury causing death..."

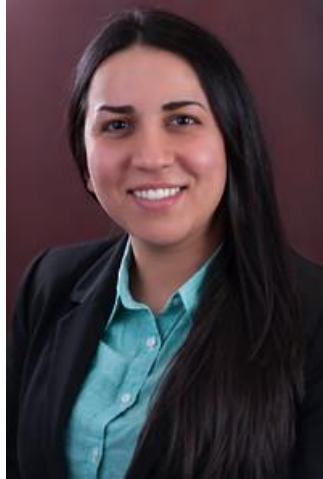
Plaintiff argued that the old-age social security benefits were akin to a pension, and were therefore "tangible things of economic value" and payable as survivors' loss benefits.

The Court, however, declined to entertain that argument and instead engaged in a "plain language" analysis of the relevant portion of the No Fault Act by turning to the dictionary definitions of the key terms in the statute. The Court concluded that old-age social security benefits fit within the plain language of the statute when it refers to "tangible things of economic value."

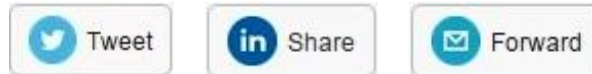
The Court stated that these benefits were capable of being valued, and do have a "rate of worth." The Court also noted that the benefits were distributed on a monthly basis at a predetermined monthly value. Finally, the Court relied on other cases that have characterized old-age social security benefits as a type of income, and concluded that old-age social security benefits are designed as a "tangible means of financial support."

To reach that conclusion, the Court relied on another case, *Miller v State Farm Mut Auto Ins Co*, 410 Mich 538 (1981), which rejected the argument that "tangible things of economic value" were limited to wages and salary. *Id.* at 556-557. The Court held that old-age social security benefits are to be included in the calculation of survivors' loss benefits under the No Fault Act.

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Please contact Renee T. Townsend at  
[rtownsend@secrestwardle.com](mailto:rtownsend@secrestwardle.com)  
or 248-539-2859



**Troy 248-851-9500**  
**Lansing 517-886-1224**  
**Grand Rapids 616-285-0143**  
**[www.secrestwardle.com](http://www.secrestwardle.com)**

## **CONTRIBUTORS**

### **Motor Vehicle Litigation Practice Group Chairs**

**Mark C. Vanneste**

**Alison M. Quinn**

### **Editors**

**Linda Willemsen**

**Sandie Vertel**

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