

no-fault newsline

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

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An Action For Declaratory Judgment Regarding Obligation To Pay Future No Fault Benefits Is Available Even Where There Are Disputed Questions of Fact

By Brandy Kuretich

In *USAA Casualty Insurance Co v Martin*, an unpublished opinion issued on July 20, 2010, the Court of Appeals reversed the trial court's decision granting summary disposition to the defendant in insurance carrier based on a finding that a complaint for declaratory judgment was improper in cases involving disputed facts regarding whether the injured party in an auto accident will require No-Fault personal protection insurance (PIP) benefits in the future.

USAA Casualty Insurance Company filed a complaint against Felisa Martin, guardian ad litem of Lazzaria Martin, to determine it was not obliged to pay future No-Fault (PIP) benefits. Defendant Martin filed a motion for summary disposition arguing that, pursuant to *Rott v STD Accident Ins Co*, declaratory relief is not appropriate in cases involving disputed questions of fact. The trial court agreed and granted Defendant Martin's motion for summary disposition.

The Court of Appeals reversed, holding that the narrow interpretation of declaratory judgment actions discussed in *Rott*, a 1941 case, was abrogated by the adoption of more recent court rules governing declaratory relief. The current court rule governing declaratory judgment actions, MCR 2.605, requires only an "actual controversy" and allows for the right to demand a trial by jury.

SECRET WARDLE NOTES:

No-Fault insurance carriers strive to avoid any legal finding that they are mandated to pay future PIP benefits, asserting that the nature and extent of one's disability may change over time. Here an insurance company brought an action to be absolved of future benefits once and for all-and lost. While the facts are poorly stated in the opinion, this is an example of a decision that seems innocuous on first reading, but could portend a major policy shift by the Court of Appeals.

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As such, the Court of Appeals found that *Rose v State Farm Mut Auto Ins Co* (a 2007 case) and *Manley v Detroit Auto Inter-Ins Exch* (a 1986 case), permit the use a trier of fact to resolve factual disputes in declaratory judgment actions, including those involving the obligation to pay *future* No-Fault benefits. Based on the current court rules, the Court of Appeals reversed the trial court and held that the trial court erred when it granted Defendant Martin's motion for summary disposition on the basis that disputed questions of fact precluded an action for declaratory relief.

CONTACT US

Farmington Hills

30903 Northwestern Highway, P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500 Fax: 248-851-2158

Mt. Clemens

94 Macomb Place, Mt. Clemens, MI 48043-5651
Tel: 586-465-7180 Fax: 586-465-0673

Lansing

6639 Centurion Drive, Ste. 130, Lansing, MI 48917
Tel: 517-886-1224 Fax: 517-886-9284

Grand Rapids

2025 East Beltline, S.E., Ste. 209, Grand Rapids, MI 49546
Tel: 616-285-0143 Fax: 616-285-0145

www.secrestwardle.com

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CONTRIBUTORS

Motor Vehicle Litigation Practice Group Chairs

Thomas J. Azoni
John H. Cowley, Jr.

Editor

Bonny Craft

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