

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

CHENG FENG LI, Individually and Surviving  
Spouse of CHUNQIN HAN, and the ESTATE OF  
CHUNQIN HAN,

Plaintiff-Appellee,

v

MICHIGAN INSURANCE GROUP, a/k/a  
DETROIT AUTOMOBILE INSURANCE  
GROUP,

Defendant-Appellant.

---

UNPUBLISHED  
May 19, 2009

No. 285038  
Ingham Circuit Court  
LC No. 07-000543-NF

Before: Fitzgerald, P.J., and Talbot and Shapiro, JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's order denying defendant's motion for summary disposition and granting plaintiff's cross-motion for summary disposition in this action pertaining to the availability of no-fault benefits. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In this automobile no-fault case, the question of whether benefits are owed depends on the domicile of the injured person. The facts relevant to this issue are not in dispute. Plaintiff and decedent Han were married and owned a house in Michigan. However, at the time Han was killed in an automobile accident, he was living in Arkansas and was driving a vehicle he owned, registered and insured in Arkansas. Han was the only named insured on the policy, and the policy was not certified to provide Michigan no-fault benefits. At the same time, plaintiff owned a vehicle registered in Michigan and had her own insurance policy with defendant. She was the only named insured and her vehicle was the only insured vehicle listed on the policy.

Under MCL 500.3111, personal protection insurance (PIP) benefits are payable if the injured person is a named insured on a policy or the spouse of a named insured. Payable PIP benefits include survivor's benefits paid to the dependents of a beneficiary. MCL 500.3108. However, a person is not entitled to benefits if, at the time of the accident, he was not a resident of Michigan, was not driving a Michigan-insured vehicle, and was not insured by a Michigan-certified insurer. MCL 500.3113(c). Thus, plaintiff's entitlement to benefits turns on whether Han was a resident of Michigan.

In 1985, after the parties married in China, Han immigrated to Michigan and attended Michigan State University. In 1986, plaintiff bore their child, Anna. Plaintiff and Anna remained in China until 1989, when they moved to Michigan to live with Han in married student housing. In 1995, they became United States citizens. Plaintiff and Han subsequently purchased a house in Haslett, Michigan in 1999 and resided at that location. Han worked for Michigan State University from 1994 to 2002 and plaintiff worked continuously from 1998 to the time of this litigation for the Michigan Department of Environmental Quality. In 2002, Han accepted a position as a microbiologist with the State of Arkansas and a part-time position as a microbiologist with the University of Arkansas. Han could not obtain comparable work in Michigan; although he was offered work, the pay was not as good and he declined the proffered positions. Han took few personal items with him other than clothing when leaving Michigan. Han rented a room from a friend and bought, registered, and insured a vehicle in Arkansas. He obtained an Arkansas driver's license and opened a bank account there. However, Han's paycheck from his full-time job was deposited directly into the joint account he held with plaintiff at the MSU Federal Credit Union. Plaintiff remained in Michigan and refused to move to Arkansas. Han would return to Michigan to be with plaintiff and their daughter spending approximately five to seven days each month in the state, and for longer periods during holidays and vacations. He would have dental, medical, and eye examination appointments in Michigan. Han paid his federal and state income taxes as a resident of Michigan, paid property tax on the house in Haslett, and received mail there. He did not use his Arkansas address as his permanent address. However, neither plaintiff nor Han knew how long he would be living in Arkansas. There was no guarantee that he would ever find a better job and return to Michigan; at the time of his death, Han had no prospect or offer of work in Michigan. An Arkansas death certificate was issued, listing Han's "residence" as his Arkansas address; his funeral and cremation also took place in Arkansas.

At the hearing on the parties' cross motions for summary disposition, the trial court agreed with the parties that the facts were undisputed and the only legal issue regarding liability was the question of Han's domicile. After citing the relevant law, the court expressly mentioned as relevant the tax returns, the home in Haslett, the fact that Han only rented a room in Arkansas, that he would fly home often, that he maintained possessions in the marital home, had his paycheck deposited in Michigan, and had his family in Michigan. The court noted that Han insured and registered his vehicle in Arkansas in order to comply with Arkansas law. The court concluded that the totality of circumstances indicated that Han was domiciled in Michigan. The parties stipulated to the amount of benefit owed, and the court entered the judgment amount.

In Michigan, "the terms 'domicile' and 'residence' are legally synonymous." *Workman v DAIIE*, 404 Mich 477, 495; 274 NW2d 373 (1979). The determination of domicile is generally a question of fact. *Fowler v Airborne Freight Corp*, 254 Mich App 362, 364; NW2d (2002). "However, where, as here, the underlying facts are not in dispute, domicile is a question of law for the court." *Id.* When analyzing whether a person is "domiciled in the same household" as the insured, courts examine a number of factors, which may include:

- (1) the subjective or declared intent of the person to remain indefinitely or permanently in the insured's household;

- (2) the formality or informality of the relationship between the person and the members of the insured's household;
- (3) whether the place where the person lives is in the same house, within the same curtilage, or upon the same premises as the insured;
- (4) the existence of another place of lodging for the person alleging domicile in the household.
- (5) the person's mailing address;
- (6) whether the person maintains possessions at the insured's home;
- (7) whether the insured's address appears on the person's driver's license and other documents;
- (8) whether a bedroom is maintained for the person at the insured's home; and
- (9) whether the person is dependent upon the insured for financial support or assistance. [*Williams v State Farm Mut Auto Ins Co*, 202 Mich App 491, 494-495; 509 NW2d 821 (1993), citing, in part, *Workman, supra*.]

These factors do not comprise a comprehensive and exclusive list and are merely “[a]mong the relevant factors” to be considered. *Workman, supra* at 496. No one factor is, in itself, determinative; instead, each factor must be balanced and weighed with the others. *Id.* at 497 n 6.

It is a fundamental tenet that “every man must have a domicile somewhere, and also that he can have but one.” *Beecher v Common Council of Detroit*, 114 Mich 228, 230; 72 NW 206 (1897), quoting Cooley, *Taxation* (2d ed, p 369). A person's “existing domicile continues until he acquires another, and, vice versa, by acquiring a new domicile he relinquishes his former one.” *Id.*

“A removal which does not contemplate an absence from the former domicile for an indefinite and uncertain time is not a change of it. But when there is a removal, unless it can be shown or inferred from circumstances that it was for some particular purpose, expected to be only of a temporary nature, or in the exercise of some particular profession, office, or calling, it does change the domicile.” [*Beecher, supra* at 231, quoting Jacobs, *Law of Domicile*, § 378.]

In other words, “Domicile [is] 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.” *Henry v Henry*, 362 Mich 85, 101-102; 106 NW2d 570 (1960), quoting *Williams v North Carolina*, 325 US 226, 236; 65 S Ct 1092; 89 L Ed 1577 (1945) (internal quotation marks omitted).

Both parties emphasize that none of the factors is dispositive. There is support for defendant's position in this case, most particularly the fact that there was no end-date for Han's life in Arkansas. However, this is just one factor to be considered. As noted by the trial court, the majority, or six of the nine *Workman* factors favor plaintiff. Only the factors pertaining to

Han not residing exclusively in the insured's residence, the existence of his rented room in Arkansas, possession of an Arkansas driver's license and the indefinite nature of his future tenure in Arkansas favor defendant.

Viewing the totality of the facts in this case demonstrates that Han did not relinquish the domicile he established over the ten year period he shared a home with plaintiff in Michigan. Notably, the residence in Michigan was Han's own house, which was inhabited by his immediate family. Han's life in Arkansas was temporary, biding time until he could obtain an adequately paying job in Michigan. Han evidenced no intent to establish himself as a permanent resident of Arkansas, having never acquired real estate or even rented an apartment in that state. The evidence indicates that Han did not merely hope but *intended* to return to his Michigan home.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Michael J. Talbot

/s/ Douglas B. Shapiro