

no-fault newsline

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

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Supreme Court Establishes Bright Line Test For “Alighting” From Motor Vehicle

By Thomas J. Azoni

In *Frazier v Allstate Insurance Company*, ___ Mich ___ (2011), the Michigan Supreme Court in a 4-3 decision provided clarification regarding claims made by persons seeking recovery of No-fault PIP benefits for falls outside of a motor vehicle. The Court rejected the assertion that one is “alighting” from a vehicle (and thus entitled to No-fault benefits) whenever there is mere *contact* between the claimant and the vehicle. The Court further rejected the claim that this Plaintiff was injured from contact with “equipment” mounted on the vehicle (the door handle) and was thereby entitled to benefits under a separate section of the No-Fault Act.

In the *Frazier* case, Plaintiff Mona Frazier was injured when she slipped on a patch of ice while closing the door of her vehicle. She claimed she was outside of her car and holding onto the door handle when she lost her balance and fell.

The Plaintiff first asserted she was in the process of “alighting” from her vehicle when she lost her balance. She pointed to the fact that she was closing the car door when she fell, thereby qualifying for benefits under MCL 500.3106(1)(c). This section of the Act allows for benefits where “...the injury was sustained by a person while occupying, entering or alighting from the vehicle.”

While the Act does not define the term “alighting”, the Plaintiff claimed that this word implies a *process* that only ends after a person has completed closing the car door with feet firmly on the ground.

The Court agreed that “alighting” is a process that ends when one’s feet are firmly planted on the ground, as here. It decided, however, that there is no relevance to the issue of whether the claimant was in physical

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Previously, plaintiffs exiting a vehicle routinely claimed that a part of their body was in contact with the motor vehicle at the time of the accident, as if this evidence automatically triggered benefits under the Act. The Court’s decision in *Frazier* makes clear that the test is not one of physical contact, but rather, whether the claimant is standing firmly outside the vehicle on his own two feet and no longer reliant on the vehicle for support.

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contact with the vehicle when the fall occurred. Instead, the Court held that the process of alighting from a vehicle is complete once a person has full control of his body movement outside the vehicle. At that moment, there is no longer a causal link between the motor vehicle and the claimant's actions, because the claimant is in no way reliant upon the vehicle itself.

The Plaintiff next claimed that she qualified for No-fault benefits by virtue of physical contact with equipment permanently mounted on the vehicle, pursuant to MCL 500.3106(1)(b). She asserted that the car door handle was the piece of "equipment" that she was holding when she fell. The Court ruled, however, that the Plaintiff was simply in contact with the vehicle generally when she fell and not a specific piece of equipment mounted on the vehicle. The Court rejected the notion that a car door handle is a piece of "equipment" mounted permanently on the vehicle for purposes of MCL 500.3106(1)(b).

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