

## Michigan’s Recreational Land Use Act Shields Against Owner-Liability Claim

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In *Milne v Robinson*, \_\_\_ Mich \_\_\_ ; \_\_\_ NW3d \_\_\_ (2024) (Docket No 164190), the Michigan Supreme Court unanimously held that the Recreational Land Use Act (“RUA”) applied to protect a defendant from liability against both a negligence claim and a proposed owner liability claim.

The case arose following the death of Plaintiff’s young daughter due to an accident while riding an ORV owned by Defendant and on his land. Plaintiff filed suit alleging that Defendant was negligent. Defendant moved for summary disposition citing that her claim was barred by the RUA, i.e., a person suffering injury while engaged in non-commercial recreational activity on the defendant’s land cannot hold the defendant liable for her injury absent proof of gross negligence or willful and wanton misconduct. Plaintiff responded that her claim could proceed under the owner-liability provision of the Michigan Vehicle Code, MCL 257.401(1), and she sought to amend her Complaint to specifically state such a claim. Plaintiff also sought to amend her Complaint to add a claim of gross negligence. The trial court granted Defendant summary disposition under MCR 2.116(C)(10), holding that the RUA applied and precluded Plaintiff’s negligence claim as a matter of law. The Court also denied Plaintiff’s Motion to Amend the Complaint as futile, holding that her proposed owner-liability claim was precluded by the RUA and that the record did not support a finding that Defendant was grossly negligent.

Plaintiff appealed, arguing only that the RUA did not apply to her owner-liability claim. The Court of Appeals disregarded this argument and affirmed the trial court’s ruling that the RUA did in fact apply. Plaintiff then sought leave to appeal to the Michigan Supreme Court who ordered oral argument on whether the RUA applied to the facts in question and if so, whether it limits an owner-liability claim under MCL 257.401(1).

In its March 20, 2024 opinion, the Supreme Court held that the RUA applied and protected the Defendant homeowner from liability. The Court cited to Plaintiff’s concession that riding an ORV is an “other outdoor recreational use or trail use” under the RUA because it is similar to “motorcycling” and “snowmobiling,” which are explicitly listed recreational activities in the statute.

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The RUA applies to Plaintiff’s proposed owner-liability claim, which requires a plaintiff to demonstrate that defendant was grossly negligent or engaged in willful and wanton misconduct, in order to prevail. As plaintiff did not challenge the trial court’s ruling that there was no factual support for a finding of gross negligence, she abandoned such an argument on appeal.

The Court then addressed whether the RUA applied to a statutory owner-liability claim under MCL 257.401(1) when a landowner owns a motor vehicle that they allow another to use for recreational purposes on their property. Here, the Court analyzed both statutes and found conflict between the two. Specifically, “under the RUA, on the basis of his status as a landowner, defendant would not be liable for the decedent’s injuries *unless he was grossly negligent*. But under the owner-liability provision, defendant could be liable on the basis of his ownership of the vehicle *regardless of whether he was negligent*.” Thus, the statutes conflict as to whether Plaintiff must demonstrate that Defendant was grossly negligent to recover damages for the decedent’s death. In sum, the Court concluded that the Legislature intended the RUA to limit owner liability under MCL 257.401(1) because owner liability was longstanding when the RUA was enacted, the RUA is a detailed provision yet has no exception for owner liability.

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