

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

AUDRA WILLIAMS

PLAINTIFF

VS.

CAUSE NO. L12-545

STATE FARM MUTUAL
AUTOMOBILE INSURANCE CO.

DEFENDANT

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

Before the Court is Defendant State Farm Mutual Automobile Insurance Co.'s ("State Farm") Motion for Summary Judgment brought under Mississippi Rule of Civil Procedure 56. The Court, being familiar with the undisputed facts and applicable law and having considered the pleadings, evidence, and arguments presented by counsel, finds as follows:

This suit concerns the Plaintiff's claim for uninsured motorist coverage arising out of an automobile accident that occurred August 11, 2011. The Plaintiff was a passenger in a vehicle insured by State Farm when it collided with a vehicle operated by Tammy Reynolds, an employee of the State of Mississippi, Bureau of Narcotics. Plaintiff's claim for damages was brought under the Mississippi Tort Claims Act (MTCA), Miss. Code Ann. § 11-46-1 *et seq.*

The parties have stipulated that at the time of the accident Tammy Reynolds was acting in furtherance of her duties as a law enforcement officer and was not acting with reckless disregard. The parties also stipulated Tammy Reynolds and the Mississippi Bureau of Narcotics are immune under the MTCA from any claims for damages by the plaintiff arising out of this accident.

The Plaintiff has made a claim for uninsured motorist benefits ("UM benefits") under the

FILE THIS THE 16th DAY OF
Oct, 2014
MINUTE BOOK 86 PAGE 439-440
BARETTA MOSLEY, CIRCUIT CLERK
BoA D.C.

State Farm Policy insuring the vehicle in which she was a passenger. State Farm now asserts it is entitled to summary judgment because the Plaintiff cannot show that Reynolds is legally liable to her under Miss. Code Ann. § 83-11-101(1), and therefore cannot recover UM benefits.

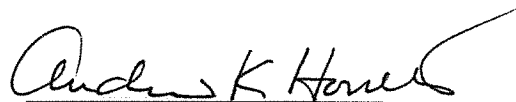
The Plaintiff responds that § 83-11-103(iv) was amended effective July 1, 2009, and under this broadened definition of an uninsured motor vehicle, she has a legally liable claim against State Farm for UM benefits.

This Court finds the UM carrier, State Farm, can only be liable if the insured is “legally entitled to recover” from the tortfeasor. § 83-11-101(1). The Court further finds that State Farm is entitled to use defenses available to the tortfeasor. While the applicable law here confers a benefit on the carrier, because the Plaintiff’s claims against Reynolds are barred by the police and fire protection exemption to the MTCA, found at § 11-46-9(1)(b), Plaintiff is not legally entitled to recover UM benefits from State Farm.

IT IS THEREFORE ORDERED that Defendant State Farm’s Motion for Summary Judgment is hereby GRANTED.

The clerk is directed to provide a copy of this Order to all counsel of record.

SO ORDERED and ADJUDGED, this the 16th day of October, 2014.


ANDREW K. HOWORTH
CIRCUIT COURT JUDGE