

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

TRISHA MONCRIEF MOSES, LINDA J. :  
BALDWIN, KENDALL S. MONCRIEF : C.A. No: K13C-04-045 RBY  
and ESTATE OF TREVOR R. :  
MONCRIEF, by and through its : **CONSOLIDATED**  
Administratrix, TRISHA MONCRIEF :  
MOSES, :  
\_\_\_\_\_ Plaintiffs, :

v. :

NATIONWIDE MUTUAL FIRE :  
INSURANCE COMPANY, a foreign :  
corporation, as insurer for :  
RAYMOND JOEY GLAESER, :  
Defendant. :

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RAYMOND WARD, JR., RAYSHAUN :  
WARD, SHAWNA WARD, RAYKEEM : C.A. No: K13C-05-036 RBY  
WARD and PATRICIA WARD, :  
Plaintiffs, :

v. :

NATIONWIDE MUTUAL FIRE :  
INSURANCE COMPANY, a foreign :  
corporation, as insurer for :  
RAYMOND JOEY GLAESER, :  
Defendant. :  
\_\_\_\_\_

*Submitted: February 3, 2014*  
*Decided: March 31, 2014*

*Upon Consideration of*  
*Defendant's Motion for Summary Judgment*  
**GRANTED**

**ORDER**

William D. Fletcher, Jr., Esquire, Schmittinger & Rodriguez, P.A., Dover, Delaware  
for Plaintiffs.

Louis J. Rizzo, Jr., Esquire, Reger Rizzo & Darnall LLP, Wilmington, Delaware for  
Defendant.

Young, J.

*Moncrief, et. al. v. Nationwide*  
C.A. No. K13C-04-045  
March 31, 2014

### SUMMARY

\_\_\_\_\_ Nationwide Mutual Fire Insurance Company (“Defendant”) moves for summary judgment pursuant to Superior Court Civil Rule 56. The instant motion arises from an action filed by Trisha Moncrief Moses, et. al., and Raymond Ward, Jr., et. al. (“Plaintiffs”), the families of two homicide victims. In this action, Plaintiffs seek coverage from Defendant’s automobile insurance policy for a judgment entered against Raymond Joey Glaeser (“Joey Glaeser”) in the matters of *Estate of Trevor Moncrief et. al. v. Glaeser et. al.*, Kent County No. 08C-06-014 and *Estate of Trevor Moncrief et. al. v. Glaeser et. al.*, Kent County No. 08C-06-014. The foregoing coverage matters were consolidated.

The underlying Complaint involves a double homicide, after which Joey Glaeser assisted David Hamilton, Jesus Aviles, and Justin Erskine (collectively “the perpetrators”) by helping them to bury the bodies of the deceased in Maryland. Plaintiffs are judgment creditors of Joey Glaeser, who utilized an automobile insured by a contract with Defendant, for emotional distress injuries Plaintiffs allegedly sustained arising out of a conspiracy in connection with the transportation of the bodies of the homicide victims in a vehicle, accompanied by Joey Glaeser driving another vehicle, followed by the subsequent burial of the bodies. Plaintiffs assert that the Glaeser vehicle was used as an active accessory in accomplishing Joey Glaeser’s plan with two of the perpetrators to transport and bury the corpses secretly. A sufficient causal nexus between Joey Glaeser’s use of the insured vehicle and Plaintiffs’ injuries does not exist. Therefore, Defendant’s Motion for Summary Judgment is **GRANTED**.

## **FACTS AND PROCEDURE**

On June 5, 2006 and into the early morning of June, 6, 2006, the perpetrators fatally assaulted Trevor Moncrief (“Moncrief”) and Raymond S. Ward, Sr. (“Ward”). After the shooting and subsequent death of Moncrief and Ward, David Hamilton called his sister Randi Hamilton at her home in Camden, Delaware. At the time, Randi Hamilton resided with her boyfriend, Joey Glaeser. Randi Hamilton allegedly told David Hamilton to come to her residence so that she and Joey Glaeser could help him dispose of the two victims’ bodies. David Hamilton and Justin Erskine indicated that they wanted to dispose of the bodies on Joey Glaeser’s family property near Goldsboro, Maryland. Joey Glaeser agreed to accompany David Hamilton and Justin Erskine to Joey Glaeser’s family property for the purpose of burying the corpses.

Two vehicles were involved in this endeavor. David Hamilton and Justin Erskine drove an Ebb Tide/Jaeger Toyota Tundra vehicle (the “Ebb Tide”) with the bodies inside, while Glaeser drove a Dodge Durango (the “insured vehicle”), with the permission of his father, Raymond Henry Glaeser (“Henry Glaeser”), which vehicle was insured by Defendant. After escorting David Hamilton and Justin Erskine to his family property, Joey Glaeser and the other two men (collectively “the conspirators”) dug a hole more than six feet deep, in which they disposed of Moncrief’s and Ward’s bodies. After burying the bodies, Joey Glaeser returned to Delaware, traveling in the insured vehicle.

Defendant issued an automobile commercial insurance policy on the insured vehicle to Sparkle Pools, a business owned by Henry Glaeser. Defendant’s

*Moncrief, et. al. v. Nationwide*  
*C.A. No. K13C-04-045*  
*March 31, 2014*

insurance policy stated the following in regards to coverage of the insured vehicle:

We will pay all sums an ‘insured’ legally must pay as damages because of ‘bodily injury’ or ‘property damage’ to which this insurance applies, caused by an ‘accident’ and resulting from the ownership, maintenance or use of a covered ‘auto.’

Plaintiffs filed their first Complaint on June 5, 2008 against Joey Glaeser, Randi Hamilton, David G. Hamilton, Charles B. Jaeger, II, Ebb Tide Nursery, Inc., Jesus Aviles, Justin Erskine and John M. Minker, IV, regarding the wrongful death of Moncrief. Joey Glaeser failed to file an Answer to Plaintiff’s Complaint. On September 7, 2010, Plaintiffs filed a Motion for Entry of Default Judgment against Raymond Glaeser, to which Joey Glaeser did not appropriately respond. On October 1, 2010, this Court entered a default judgment against Joey Glaeser with regard to Plaintiffs.

On November 30, 2010, an inquisition at the Bar was held. This Court assessed damages against Joey Glaeser, jointly and severally with Defendant Randi Hamilton, in the amount of \$750,000 for Plaintiffs. The damages were assessed for Plaintiffs’ emotional distress after learning about the transportation and subsequent burial of the bodies, the conspiracy, as well as the abuse of the corpses.

On April 26, 2013, Plaintiffs filed a Complaint against Defendant. In that Complaint, Plaintiffs’ request for coverage asserted that, because Joey Glaeser used the insured vehicle to hide the bodies of Moncrief and Ward, Defendant must provide coverage for the claims made against Joey Glaeser. On December 23,

*Moncrief, et. al. v. Nationwide*  
C.A. No. K13C-04-045  
March 31, 2014

2013, Defendant filed the instant Motion for Summary Judgment. On January 31, 2014, Plaintiffs filed a Response.

### **STANDARD OF REVIEW**

Pursuant to Superior Court Civil Rule 56, summary judgment is appropriate when there is no genuine issue of material fact so that the moving party is entitled to judgment as a matter of law. In ruling on a motion for summary judgment, the Court must consider the facts in the light most favorable to the non-moving party.<sup>1</sup> The moving party bears the burden of showing that no genuine material of fact exists.<sup>2</sup> If, in a properly supported motion for summary judgment, the moving party shows that there is no genuine issue of material fact, then the burden shifts to the non-moving party to prove that there is a material issue of fact in dispute.<sup>3</sup> In order to carry its burden, the non-movant must produce specific facts, which would sustain a verdict in its favor.<sup>4</sup> The non-movant cannot create a genuine issue for trial through bare assertions or conclusory allegations.<sup>5</sup> In weighing a motion for summary judgment under this rule, the Court must examine the record, including pleadings, depositions, admissions, affidavits, answers to

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<sup>1</sup> *Schagrin v. Wilmington Medical Center, Del. Super.*, 304 A.2d 61 (1973).

<sup>2</sup> *Moore v. Sizemore, Del. Super.*, 405 A.2d 679 (1979).

<sup>3</sup> *Id.* at 681.

<sup>4</sup> *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242 (1986).

<sup>5</sup> *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

*Moncrief, et. al. v. Nationwide*  
C.A. No. K13C-04-045  
March 31, 2014

interrogatories, and any other product of discovery.<sup>6</sup>

### **DISCUSSION**

In its Motion for Summary Judgment, Defendant argues that Plaintiffs' injuries did not result from the ownership, maintenance, or use of the insured vehicle. Plaintiffs assert that the insured vehicle was an active accessory in accomplishing the conspirators' plan of transporting and secretively burying the corpses. In this matter, Maryland law applies to the legal issues related to coverage because: the insurance policy was issued to Sparkle Pools and Henry Glaeser in Maryland; the insured vehicle was registered in Maryland; and the alleged tortious activity took place in both Delaware and Maryland.<sup>7</sup> The parties agree on that, though the law in Maryland and Delaware do not appear to conflict.

In cases that construe the phrase, "arising out of the...use of a motor vehicle," Maryland law requires a causal nexus between the motorist's use of the insured vehicle and the injury in order for the insurance company to cover damages. *State Farm v. DeHaan*, 393 Md. 163, 900 A.3d 208 (2006) (herein "*DeHaan*"). *DeHaan* involved an insured approaching his parked vehicle, opening its door, and being shot by someone sitting in the vehicle. While *DeHaan* is factually unrelated to the case at hand, it cites several other cases illustrating what constitutes a sufficient nexus between the use of a motor vehicle and the injury.

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<sup>6</sup> *G.R. Sponaugle & Sons v. Mcknight Construction Co.*, Del. Super. Ct., 304 A.2d 339 (1973); *Oliver B. Cannon & Sons v. Door Oliver, Inc.*, Del. Super. Ct., 312 A.2d 322 (1973).

<sup>7</sup> See *State Farm Mut. Auto. Ins. Co. v. Patterson*, 7 A.3d 454, 2010 Del. LEXIS 569 (2010).

*Moncrief, et. al. v. Nationwide*  
C.A. No. K13C-04-045  
March 31, 2014

In *Frazier v. Unsatisfied Claim and Judgment Fund Bd.*, 262 Md. 115, 277 A.2d 57 (1971) (herein “*Frazier*”), an occupant in another car, driving in the opposite direction of the plaintiff, threw a lit firecracker into the plaintiff’s car, causing the plaintiff to crash. In *Harris v. Nationwide Mutual Insurance Company*, 117 Md. App. 1, 699 A.2d 447 (1997) (herein “*Harris*”), a stranger rode alongside a plaintiff walking to her car, and grabbed her purse while the woman was dragged by her arm, which was entangled in the purse. In *National Indemnity Co. v. Ewing*, 235 Md. 145, 200 A.2d 680 (1964) (herein “*Ewing*”), a driver lost control of his car, causing his passenger to be ejected. When the driver got out of his car to help the passenger, the driver was struck by another vehicle.

In all three of the cases above, the Maryland Court of Appeals found that a sufficient nexus existed between the vehicle and the injury even though the tortfeasor’s vehicle did not cause the motor collision. Plaintiffs argue that, similar to those cases, the vehicle in the instant case played a role in facilitating the tortious conduct. However, a vehicle’s mere presence in the chain of events is not sufficient to establish coverage.<sup>8</sup> The causal connection between the use of the motor vehicle and the injury must be “more than incidental or fortuitous.”<sup>9</sup> In addition, the use of the motor vehicle must be of the type normally contemplated by the insurance company and the insured.<sup>10</sup>

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<sup>8</sup> *Wright v. Allstate Inc. Co.*, 128 Md. App. 694, 740 A.2d 50, 55 (1999).

<sup>9</sup> *Id.*

<sup>10</sup> *DeHaan*, 900 A.3d 208 (2006).

The instant matter, though, is similar to *Wright v. Allstate Inc. Co.*, 128 Md. App. 694, 740 A.2d 50 (1999) (herein “*Wright*”), which differs materially from either *Frazier, Harris*, or *Ewing*. In *Wright*, the plaintiffs were shot in their car while they were stopped at a stop sign. A man emerged from a parked vehicle to the side of the plaintiffs, and began shooting at the plaintiffs in their car. The perpetrator’s vehicle was simply a means of transportation to the crime scene, unlike in *Frazier, Harris* or *Ewing*, where the vehicles played a prominent role in the commission of the crimes.<sup>11</sup> In arriving at its conclusion that the car was incidental to the perpetrator’s attempt to kill the plaintiffs in *Wright*, the Maryland Court of Appeals has stated that, if held otherwise, any victim of a crime whose assailant fled the scene of a crime in a car could seek recovery from their insurance company, if he had a policy containing uninsured motorist’s coverage.

In the instant matter, the insured vehicle played no part in Plaintiffs’ injuries. The insured vehicle merely and incidentally provided for Joey Glaeser’s transportation to the crime scene and back to Delaware. Indeed, according to Joey Glaeser’s deposition, a primary reason for his using the insured vehicle to the burial area was to drive himself to work after he and the perpetrators had finished disposing of the bodies.

In any event, the insured vehicle was simply a means of transportation to the site where Joey Glaeser, Justin Erskine, and David Hamilton carried out their conspiracy, abusing the corpses. Plaintiffs sustained injuries from the emotional

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<sup>11</sup> *Wright*, 740 A.2d 50, 53.

*Moncrief, et. al. v. Nationwide*  
C.A. No. K13C-04-045  
March 31, 2014

distress of learning about the transportation of the bodies in the Ebb Tides truck, not from Glaeser's use of the insured vehicle. Considering the facts in the light most favorable to Plaintiffs, a sufficient causal nexus between Joey Glaeser's use of the insured vehicle and Plaintiffs' injuries does not exist.

**CONCLUSION**

For the foregoing reasons, Defendant's Motion for Summary Judgment is **GRANTED.**

**IT IS SO ORDERED.**

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/s/ Robert B. Young  
J.

RBV/lmc  
oc: Prothonotary  
cc: Counsel  
Opinion Distribution  
File