Order

Michigan Supreme Court
Lansing, Michigan

October 3, 2025

167393

PROGRESSIVE MARATHON INSURANCE COMPANY,
Plaintiff-Appellant,

v

SC: 167393
COA: 366764
Oakland CC: 2022-195860-NF

JUAN-CARLOS ESPINOZA-SOLIS, a/k/a JUAN-CARLOS ESPINOZA, a/k/a JUAN-CARLOS SOLIS,
Defendant,

and

GJOVALIN SHKRELI,
Defendant-Appellee.

_____/

On order of the Court, the application for leave to appeal the June 20, 2024 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

WELCH, J. (*dissenting*).

In *Coburn v Fox*, 425 Mich 300 (1986), this Court concluded that, under the no-fault act, when an insured refuses to cooperate in defending a claim, their insurer is liable "to the extent of the statutorily required minimum residual liability insurance." *Id*. at 312. In this case, the Court of Appeals was confronted with the question of how to apply *Coburn*'s holding to the 2019 amendments of the no-fault act. See 2019 PA 21 and 2019 PA 22, codified at MCL 500.3009. Specifically, the amendments increased the minimum coverage required from $20,000 per person and $40,000 per accident to $250,000 per person and $500,000 per accident, see MCL 500.3009(1)(a) and (b), but also allowed policyholders to elect to carry much lower coverage of only $50,000 per person and $100,000 per accident, see MCL 500.3009(5).

In this case, the Court of Appeals concluded that, because the $250,000/$500,000 limits in MCL 500.3009(1) "apply by default and are mandatory for all no-fault policies," see *Progressive Marathon Ins Co v Espinoza-Solis*, ___ Mich App ___, ___ (June 20, 2024) (Docket No. 366764); slip op at 8, they were the "statutorily required minimum residual liability insurance" described in *Coburn*, see *id*. at ___; slip op at 9. However, the Court of Appeals also concluded that if the policyholder elected to carry lower coverage pursuant to MCL 500.3009(5), then "the selected policy limit becomes the required minimum residual liability insurance." *Id*. at ___; slip op at 8.

While the Court of Appeals' conclusion regarding MCL 500.3009 is certainly one logical way to read the statute, a reasonable argument can also be made that the $50,000/$100,000 limits in MCL 500.3009(5) are the statutorily required minimums, as understood by *Coburn*. See *Newman Estate v Gaval*, unpublished per curiam opinion of the Court of Appeals, issued March 19, 2025 (Docket No. 368610) (SWARTZLE, J., concurring), p 2. Moreover, the result of the Court of Appeals' decision is that the statutorily required minimum residual liability insurance will change from one insurance policy to another. Regardless of whether this outcome represents sound policy, applying *Coburn* to a materially different no-fault act represents a significant expansion of its holding.

Because of this, I would have granted the application to consider *Coburn*'s application to the post-2019 version of the no-fault act. Accordingly, I respectfully dissent from the Court's order denying leave to appeal.