S T A T E O F M I C H I G A N

C O U R T O F A P P E A L S

BARBARA GEARY,

Plaintiff-Appellee,

v

C&K MUFFLERS INC, d/b/a MAXI MUFFLER and CHARLES L FINNEY,

Defendants-Appellees,

and

SECURA INSURANCE COMPANY,

Garnishee Defendant-Appellant,

and

RINELLE SIMPSON and KRISTY J FINNEY,

Defendants.

UNPUBLISHED
June 6, 2006

No. 267105
Kalamazoo Circuit Court
LC No. 02-000639-NI

Before: Meter, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Garnishee Secura Insurance Company ("Secura") appeals by right the trial court's opinion and order granting summary disposition to plaintiff and denying Secura's motion to quash a writ of garnishment issued to collect a three million dollar judgment entered in an automobile negligence action against defendants C&K Mufflers Inc, d/b/a Maxi Muffler and Charles L. Finney under the owner's liability statute, MCL 257.401. We affirm.

I. Summary of Facts and Proceedings

On March 12, 2002, defendant Rinelle Simpson was drunk and driving a 1988 Jeep bearing an "in-transit" plate issued by the Secretary to State to defendant Maxi Muffler when she struck the automobile plaintiff was driving, rending plaintiff a quadriplegic. At the time of the accident, Secura insured defendant Finney, d/b/a Maxi Muffler, (hereafter, "Finney"), under two

contracts of insurance: a commercial automobile policy and a commercial general liability policy with a "businessowners" endorsement. Plaintiff concedes the automobile policy provided no coverage for Finney because the Jeep was not specifically identified in the policy, and no other provision of the policy applied. The issue on appeal is whether the trial court correctly determined in the garnishment proceeding that Finney was not an owner of the Jeep for the purpose of a policy provision that excludes coverage under the commercial general liability for bodily injury "arising out of the ownership, maintenance, use or entrustment to others of any . . . 'auto' . . . owned . . . by . . . any insured," while having determined in the underlying personal injury action that Finney was liable under the owners liability statute, MCL 257.401.

Plaintiff filed her negligence complaint against defendants on November 13, 2002. In addition to alleging that Simpson was negligent, plaintiff alleged that defendants Finney and C&K Mufflers, d/b/a Maxi Muffler were owners of the Jeep driven by Simpson, and therefore, liable to plaintiff under MCL 257.401. Before plaintiff filed her complaint, Secura denied coverage for the accident. Ironically, Secura denied coverage under the commercial general liability policy because "the vehicle was not owned by Charles Finney or Maxi Muffler, nor was it used in the course of his business, at the time of the accident, nor prior to the accident."[1]

In the underlying action, Finney appeared through retained counsel, contending he was not the owner of the Jeep for purposes of MCL 257.401. After discovery, the parties entered into a stipulation of facts regarding the Jeep in the months and days before the accident. Both parties moved for summary disposition under MCR 2.116(C)(10). The trial court heard and decided the motion in plaintiff's favor on March 15, 2004. Subsequently, the trial court entered an order granting plaintiff's motion for summary disposition on April 14, 2004, which provided:

> [T]his Court makes the finding, as a matter of law, that Defendant Charles Finney/C&K Muffler was an owner of the 1988 Jeep at the time it was involved in a motor vehicle accident on or about March 12, 2002 for purposes of owner's liability under the Owner's Liability Statute (MCL 257.401) . . . .

After entry of default against Simpson, the trial court entered a judgment against her on July 8, 2004 for damages in the amount of $3,303,227. The judgment also provided that:

> Defendants C&K Muffler, d/b/a/ Maxi Muffler and Charles Finney, having been found an owner of the vehicle involved for the purposes of Owner's Liability under MCL 257.401 be [sic] liable for said damages assessed against Rinelle Simpson.

Neither the trial court's order granting summary disposition nor the July 8, 2004 judgment has been appealed. The court's reasoning and legal conclusions on the basis of the stipulated facts are, however, pertinent to understanding and resolving the issues raised in this appeal regarding the subsequent garnishment proceedings against Secura. At the hearing on March 15, 2004, the trial court related the stipulated history of the Jeep's ownership as follows:

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[1] Secura representative, John Winan's letter dated September 5, 2002 to plaintiff's counsel.

> The registered owner of the Jeep was Bobby Lee Gale . . . . In return for a vacuum cleaner, Bobby Lee Gale gave the Jeep and the incomplete certificate of title to an individual named Ashraf . . . Abdelazim . . . [whose] . . . business is known as MCSA Maintenance.
>
> [Abdelazim] in return for forgiving a $250 debt, . . . gave the Jeep and an incomplete certificate of title to defendants Finney and CK Muffler, doing business as Maxey [sic] Muffler.
>
> In return for the installation of a hot water heater, Maxey [sic] Muffler and the Finneys[2] gave the Jeep but no certificate of title to a Shaun Dando . . . . Dando loaned the Jeep to [Simpson].

The trial court then stated its legal conclusion: Dando owned the Jeep when the accident occurred on March 12, 2002.

> Shaun Dando, who is a nonparty to this action, . . . was the owner of the 1988 Jeep even though he did not have possession of a completed certificate of title. The Jeep had been conveyed to Mr. Dando by defendants Finney and C&K Muffler in return for installing a hot water heater on February 22nd, 2002. After that date Dando had possession of the Jeep and he believed that the Jeep was his to do with as he pleased. Despite the confusion on the chain of title on this Jeep, Dando at that point had exclusive control of the vehicle and he can be considered an owner . . . .

But the trial court observed that there can be more than one owner of a vehicle for the purpose of liability under MCL 257.401, "even though none of the owners possess all of the normal incidents of ownership." The trial court then addressed plaintiff's argument, based on *Weiland v Kenny*, 385 Mich 654; 189 NW2d 257 (1971), that Finney and Maxi Muffler were estopped from denying ownership of the Jeep because it was being driven with an "in-transit" plate issued by the Secretary of State to the muffler shop. The trial court agreed, reasoning:

> What happened here is this: C&K Muffler had a license plate that authorized . . . the muffler shop to take a particular vehicle on the road using that plate to test-drive the vehicle after repairs or to transport it to and from the owner's house to the shop or to take it to and from different places.
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> . . . Dando was given the vehicle after this bartering went on, and he was given the plate even though . . . Mr. Dando was told . . . [to] bring the plate back as soon as you get the car home. This is a violation of the statute authorizing these particular plates for repair facilities.

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[2] Plaintiff originally named as a defendant Kristy Finney, the spouse of Charles Finney. Mrs. Finney was not involved with the Jeep and the parties agreed to dismiss her from this lawsuit.

* * *

> In this case Mr. Dando was given this plate. He was driving the vehicle outside the scope of the use authorized by the plate. He continued to have it for, I believe, some ten or 18 days. He, in turn, then gives the use of the car to someone else who clearly has no authority to be driving . . . that vehicle on the road . . . when the accident occurs.

* * *

> . . . The [*Wieland*] decision really says someone who authorizes people to put a vehicle on the road and part of that authorization is by using this plate, they can't later turn around and say, no, I don't own the vehicle; somebody does but not me. That's . . . estoppel. And I think this case . . . comes right within that *Wieland* decision, . . . and the owner liability statute 257.401 and the theory of estoppel.

The trial court concluded that Finney violated MCL 257.256(1) by allowing Dando to use the "in-transit' plate, and "under these circumstances in the *Wieland* case, as a matter of law based upon the stipulation of facts here, the Court finds that the defendants Finney and C&K Muffler are estopped from denying liability under the owner's liability statute."

After the trial court granted plaintiff's motion for summary disposition, Charles Finney and his spouse filed a voluntary petition for Chapter 7 bankruptcy in the United States Bankruptcy Court, Western District of Michigan. Plaintiff moved for relief from the automatic stay. The bankruptcy court issued an order granting relief on August 7, 2004, authorizing plaintiff with respect to her circuit court judgment "to recover against any insurance policy issued with Debtor as the insured . . . ." The Finney's were granted a discharge in bankruptcy court on September 15, 2004, which relieved Charles Finney of the legal obligation to satisfy plaintiff's judgment. On December 6, 2004, plaintiff obtained a writ of garnishment directed to Secura.

Secura filed its disclosure denying either of its insurance policies issued to Finney provided coverage for the accident which caused plaintiff's injuries. Secura also moved to quash the writ of garnishment. Plaintiff subsequently responded by moving for summary disposition pursuant to MCR 2.116(C)(10), to which Secura replied that it should be granted summary disposition pursuant to MCR 2.116(I)(2). The trial court heard the parties' arguments on September 28, 2005, and issued its opinion and order on November 22, 2005, granting plaintiff summary disposition and denying Secura's motion to quash the writ of garnishment.

Secura argued in the trial court that its general liability policy provides that it will pay "those sums that the insured becomes legally obligated to pay as damages because of 'bodily injury' . . . to which this insurance applies." Because Finney identified plaintiff's claim as a contingent liability filed in a voluntary bankruptcy petition and was granted a discharge, Finney has no legal obligation to pay the Judgment. Secura therefore asserts that, under the plain language of the policy, no coverage is provided for plaintiff's judgment.

The trial court rejected this argument for two reasons. First, although Finney as an individual was granted a discharge, Secura also insured C&K Muffler, which was not

discharged.[3] Second, the trial court rejected Secura's argument because § E of the businessowners liability coverage form at issue provides: "Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy."

Next, Secura argued that § L of the policy provides that the insured's "rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named-insured." Secura asserted it had not consented to any transfer of rights, nor was there any evidence that Finney transferred any of his rights under the policy to plaintiff. The trial court determined this argument was without merit because Finney transferred nothing to plaintiff; plaintiff was only attempting to collect the judgment against Secura's insured.

Secura also asserted that § E(4) of the businessowners liability coverage form at issue excluded coverage. That section provides:

> No person or organization has a right under this policy:
>
> > (a) To join us as a party to or otherwise bring us into a "suit" asking for damages form an insured; or
> >
> > (b) To sue us on this policy unless all of its terms have been complied with.
>
> A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or claimant's legal representative.

In addressing this claim, the trial court first noted Secura had not indicated any terms of the policy with which Finney had not complied. The trial court agreed that plaintiff's judgment was not an "agreed settlement," and that judgment was not entered "after an actual trial." Rather, judgment was entered on the basis of the pleadings and stipulated facts pursuant to MCR 2.116(I)(1). The trial court ruled that, "[t]o construe this provision as suggested by Secura would run afoul of public policy because it would treat judgments obtained by summary disposition differently than those obtained after trial."

But Secura primarily argued below as it does on appeal that the trial court correctly determined in the underlying liability action that Finney was an owner of the Jeep for the purposes of liability under MCL 257.401. Secura further noted that despite any inconsistency between the court's July 8, 2004 order and its comments during the March 15, 2004 hearing, a "court speaks through its orders."

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[3] The named insured of the policy at issue is "Maxi Muffler, Chuck Finney DBA."

The trial court rejected this argument, finding that Secura had misinterpreted its July 8, 2004 order. The court ruled it had found that Dando was the owner of the Jeep, and that Finney, who had permitted the illegal use of the "in-transit" plate, was estopped to deny ownership. The court observed that "[b]eing estopped from denying ownership does not, however, render someone an owner."

The trial court also ruled that neither Finney nor C&K Muffler was an "owner" as that word is defined in either the no-fault act, MCL 500.3101(2)(g), or the Motor Vehicle Code, MCL 257.37, because "they were not renting the vehicle and did not have exclusive use of the vehicle at the time of the accident." Further, although Finney possessed a certificate of title at the time of the accident, it was incomplete and defective.[4] The trial court also noted that Finney had not transferred the Jeep to Dando pursuant to an installment sales contract.

The trial court then addressed the heart of the issue presented in this appeal: whether Secura's insured was an owner of the Jeep within the terms of Secura's general liability insurance policy. The court recognized that the insurance policy's businessowners liability coverage form, part B, § g, plainly excluded coverage for bodily injury "arising out of the ownership, maintenance, use or entrustment to others of any . . . 'auto' . . . owned . . . by . . . any insured." But the policy did not provide definitions for the terms "owned," "owner," or "ownership." Accordingly, the trial court concluded it must assign those undefined terms their commonly understood meaning. Applying the commonly understood meaning of the undefined term "owner," and relying on *Twichel v MIC General Ins Co*, 469 Mich 524; 676 NW2d 616 (2004), the trial court concluded that Finney was not an "owner" of the Jeep at the time of the accident because he lacked "possession, control, and dominion" over the Jeep. The court wrote in its opinion and order:

> Finney did own the vehicle when he accepted it from Ashraf Abdelazim because at that time he had possession and control over the vehicle. Before the accident, however, Finney transferred ownership to Shawn Dando, who, at the time of the accident, was the owner of the vehicle. After February 22, 2002, Finney did not have possession of and could no longer exercise control or dominion over the 1988 Jeep. As such, he could not be considered an owner of the vehicle at the time of the accident on March 12, 2002, under Secura's insurance policy.

As discussed already, the trial court rejected Secura's other arguments. Because the court found no genuine issue of material fact remaining, it granted plaintiff's motion for

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[4] Bobbie Lee Gale, the registered owner of the Jeep, endorsed the certificate of title to "MSCA Maintenance Systems." Ashraf Abdelazim, who operated MSCA Maintenance, gave the endorsed certificate of title to Finney. Finney possessed the endorsed certificate of title when he bartered the Jeep to Dando for labor on February 22, 2002. Finney did not give Dando the endorsed certificate of title until after the accident. No one applied to the Secretary of State for a transfer of title.

summary disposition pursuant to MCR 2.116(C)(10), and denied Secura's motion to quash the writ of garnishment. Secura appeals by right.

II. Standard of Review

We review de novo a trial court's decision on a motion for summary disposition to determine if the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). A motion brought under MCR 2.116(C)(10) tests the factual sufficiency of a claim and must be supported by affidavits, depositions, admissions, or other documentary evidence. MCR 2.116(G)(3)(b); *Maiden, supra* at 120. Summary disposition is proper under MCR 2.116(C)(10) if the submitted affidavits or other documentary evidence viewed in the light most favorable to the non-moving party show that there is no genuine issue of any material fact and the moving party is entitled to judgment as a matter of law. *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).

We also review de novo, as questions of law, issues regarding the interpretation of an insurance contract and the interpretation of statutes. *Twichel, supra* at 528, 533.

III. Analysis

Secura submits as its primary argument on appeal, as it did below, that the inconsistent rulings of the trial court regarding whether Finney was an owner of the Jeep cannot be permitted to stand. Secura in its brief on appeal states, "It is illogical and contradictory to say that Finney is liable for [plaintiff's] injuries as an owner under the owner's liability statute, and then to say there is coverage under Secura's policy for the Judgment against Finney because Finney was not an owner of the jeep." We agree that when considered in the abstract and not against the background of the differing legal standards necessary to answer the two separate legal questions, the trial court's two rulings appear inconsistent and illogical. Nevertheless, Secura has failed to present any factual or legal basis for concluding that the trial court erred in its ruling that Finney was not an owner of the Jeep for purposes of Secura's policy exclusion, which is the only one of the two apparent inconsistent rulings before this Court on appeal.[5]

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[5] We note that at no point has Secura asserted that the doctrine of judicial estoppel, intended to keep court rulings consistent, and to keep litigants from playing fast and loose with the system, may apply to the facts of this case. See *Paschke v Retool Industries*, 445 Mich 502, 509-510; 519 NW2d 441 (1994). Under the doctrine of judicial estoppel, "'a party who has successfully and unequivocally asserted a position in a prior proceeding is estopped from asserting an inconsistent position in a subsequent proceeding.'" *Id*. at 509, quoting *Lichon v American Univ Ins Co*, 435 Mich 408, 416; 459 NW2d 288 (1990). The fact that the prior and subsequent proceedings occur within the same litigation does not bar the application of the doctrine of judicial estoppel. *Driver v Hanley (After Remand),* 226 Mich App 558, 563; 575 NW2d 31 (1997). The "prior success" model of the doctrine applies in Michigan, under which "the mere assertion of inconsistent positions is not sufficient to invoke estoppel; rather, there must be some indication that the court in the earlier proceeding accepted that party's position as true. Further,

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Secura asserts that the trial court correctly determined in the underlying liability action that Finney was an owner of the Jeep under MCL 257.401. Secura contends that this determination is controlled by the definition of "owner" in the Motor Vehicle Code, MCL 257.37, citing *Ringewold v Bos*, 200 Mich App 131; 503 NW2d 716 (1993). Further, Secura argues Finney was also an "owner" of the Jeep as that term is defined under the no-fault act, MCL 500.3101(2)(g). We find Secura's reliance on these statutory definitions misplaced. The policy at issue here is not authorized, required, or governed by either the Motor Vehicle Code or the no-fault act. Accordingly, the statutory definitions of "owner" provided by MCL 257.37 and MCL 500.3101(2)(g) do not affect the meaning of the undefined terms "ownership" and "owned" in Secura's insurance policy. *Twichel, supra* at 533-534; see also *Cohen v Auto Club Ins Ass'n*, 463 Mich 525, 531-532; 620 NW2d 840 (2001) (uninsured-motorist coverage not required by the no-fault act was not governed by the act's provisions). Therefore, "the insurance policy itself, which is the contract between the insurer and the insured, controls the interpretation of its own provisions providing benefits not required by statute." *Rohlman v Hawkeye-Security Ins Co*, 442 Mich 520, 525; 502 NW2d 310 (1993).

Insurance policies should be construed by the same contract construction principles that apply to any other type of contract. *Rory v Continental Ins Co*, 473 Mich 457, 461, 468; 703 NW2d 23 (2005). When interpreting a contract, the primary goal is to honor the intent of the parties. *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 473; 663 NW2d 447 (2003). In that regard, "unless a contract provision violates law or one of the traditional defenses to the enforceability of a contract applies, a court must construe and apply unambiguous contract provisions as written." *Rory, supra* at 461. Further, a court must read a contract as a whole, to give harmonious effect, if possible, to every word and phrase. *Wilkie v Auto-Owners Ins Co*, 469 Mich 41, 50 n 11; 664 NW2d 776 (2003). A contract's language must be accorded its ordinary and plain meaning, *id*. at 47, and technical or constrained constructions should be avoided, *Singer v American States Ins*, 245 Mich App 370, 374; 631 NW2d 34 (2001). Thus, unless otherwise defined by the contract, the terms of an insurance policy must be given their commonly understood meanings. *Group Ins Co v Czopek*, 440 Mich 590, 596; 489 NW2d 444 (1992); *Twichel, supra* at 534. A court may appropriately refer to a dictionary to ascertain the commonly understood meaning of an undefined contract term. *Id*.; *Popma v Auto Club Ins Ass'n*, 446 Mich 460, 470; 521 NW2d 831 (1994).

In *Twichel,* our Supreme Court addressed the meaning of the undefined term "owner" used in an automobile insurance policy. The Court referred to several dictionary definitions and concluded "that *possession*, *control,* and *dominion* are among the primary features of ownership." *Twichel, supra* at 534 (emphasis in original). Our de novo review of the record here convinces us that the trial court correctly applied this commonly understood meaning of the

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in order for the doctrine of judicial estoppel to apply, the claims must be wholly inconsistent." *Paschke, supra* at 509-510 (citations omitted).

We do not determine whether the doctrine applies to this case because Secura has waived its possible application by failing to preserve it below, and by failing to argue or cite authority regarding the doctrine on appeal. *Yee v Shiawassee County Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002).

term "owner" to the undisputed facts to conclude that Dando was the owner of the Jeep at the time of the accident, and Finney was not. Further, although not necessary to our construction of the policy term at issue, we find no logical or legal inconsistency between the trial court's ruling that Finney was liable under the owners liability statute, MCL 257.401, and its subsequent ruling that Finney was not, at the time of the accident, in fact, the "owner" of the Jeep according to the commonly understood meaning of that term. The record is clear; the trial court never factually found that Finney was the owner of the Jeep at the time of the accident. Rather, the court reached the legal conclusion that Finney, because he permitted the illegal use of the license plate assigned by the Secretary of State to Maxi Muffler, was estopped to assert that he was not the owner of the Jeep for purposes of MCL 257.401.[6] As explained in *Weiland,* supra at 656-657, quoting *Reese v Reamore*, 292 NY 292, 297; 55 NE2d 35 (1944), the illegal use of a license plate is *false* evidence of ownership, which gives rise to estoppel.

Moreover, we conclude that even when viewed in the light most favorable to Secura, Finney's possession of a certificate of title endorsed by a prior owner to "MSCA Maintenance Systems" was insufficient to create a genuine issue of material fact that Finney was the owner of the Jeep. Therefore, the trial court correctly concluded as matter of law that Finney was not the owner, as that term is commonly understood, of the Jeep at the time of the accident. The trial court properly granted summary disposition under MCR 2.116(C)(10) in favor of plaintiff because Finney was not the owner of the Jeep at the time of accident; accordingly, coverage under Secura's general liability policy was not excluded by § B(g) of the businessowners liability coverage form.

We also conclude that the trial court properly rejected Secura's argument that Finney's bankruptcy discharge terminated its obligation to satisfy a judgment against its insured for bodily injury. The provision of the parties' contract that directly addresses this issue could not be clearer and governs. Section E(1) of Secura's businessowners liability coverage form, captioned "Bankruptcy," plainly states, "Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy."

We further agree with the trial court that § E(4) of the businessowners liability coverage form at issue does not exclude coverage for plaintiff's judgment, although not for the same reasons as the trial court. This Court will uphold a trial court when it reaches the correct result, albeit for the wrong reason. *Gleason v Dep't of Transportation*, 256 Mich App 1, 3; 662 NW2d 822 (2003). Specifically, we do not base our conclusion on policy grounds.

First, we agree with the trial court that Secura has failed to point to any term of the policy with which Finney failed to comply. Also, we agree that Finney did not assign any rights to plaintiff; rather, the policy by its plain terms obligates Secura to satisfy the judgment plaintiff obtained in the underlying negligence action against Secura's insured. Finally, we reject

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[6] We acknowledge that plaintiff alleged in her complaint that Finney was the "owner" of the Jeep at the time of the accident, thus giving rise to a basis for the court to impose liability on Finney under MCL 257.401, because Finney was estopped to deny ownership. See n 5, *supra*. Nevertheless, the trial court's factual findings and legal conclusions were not inconsistent.

Secura's claim that it is not obligated to satisfy plaintiff's judgment because it was not "obtained after an actual trial," but not on the basis that this provision violates public policy by treating judgments obtained after summary disposition differently from those obtained after trial. Instead, we find the commonly understood meaning of the word "trial" includes judgments rendered after a factual determination by a jury, by a judge, or as in this case, after a hearing before a judge that determines there is no dispute regarding a genuine issue of any material fact and therefore, the moving party is entitled to judgment as a matter of law. Because the policy does not define "trial," and because it is not a technical term or term of art, it is appropriate to refer a dictionary definition to ascertain its commonly understood meaning. *Popma, supra* at 470. It is particularly apt to refer to a dictionary because lawyers and judges may comprehend the word "trial" differently from its commonly understood meaning.[7] "Trial" is defined in *Random House Webster's College Dictionary* (1992), p 1423, as "the examination of a cause before a court of law, often involving issues both of law and fact." Of course, that is exactly what occurred when the trial court granted summary disposition to plaintiff and subsequently entered judgment against Secura's insured. Accordingly, applying commonly understood meanings to the terms § E(4) of the businessowners liability coverage form affords Secura no basis to avoid liability for plaintiff's judgment.

As its last argument, Secura asserts the trial court erred by failing to address its "other defenses." On appeal, Secura fails to brief or argue what "other defenses" it has, or how they may apply to the facts and circumstances of this case. In general, "where a party fails to brief the merits of an allegation of error, the issue is deemed abandoned by this Court." *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). As this Court noted in *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959):

> "It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow."

For these reasons, Secura has abandoned any "other defenses" it may have had.

We affirm.

/s/ Patrick M. Meter
/s/ Joel P. Hoekstra
/s/ Jane E. Markey

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[7] For example, a lawyer or judge knows the difference between a "jail" and a "prison." But to non-lawyers, the terms "jail" and "prison" are synonymous; they are places of incarceration for persons who have been convicted of crimes.