

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CARLOS BYARS-WALKER,

Plaintiff-Appellant,

and

ATLANTIC PHYSICAL THERAPY &  
REHABILITATION SERVICES INC,

Intervening Plaintiff,

v

JOHN DOE and AVIS BUDGET CAR RENTAL  
LLC,

Defendants,

and

USA UNDERWRITERS,

Defendant-Appellee.

UNPUBLISHED

January 16, 2026

12:17 PM

No. 372957

Wayne Circuit Court

LC No. 23-013893-NI

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Before: REDFORD, P.J., and CAMERON and PATEL, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court’s order granting summary disposition to defendant under MCR 2.116(C)(10) (no genuine issue of material fact).<sup>1</sup> We affirm.

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<sup>1</sup> The order plaintiff appeals is the trial court’s final order dismissing defendants Avis Budget Car Rental, LLC, and John Doe, and closing the case, but plaintiff is challenging only the trial court’s

## I. FACTUAL AND PROCEDURAL BACKGROUND

This case arose after plaintiff was involved in a motor vehicle accident and sought first-party personal protection insurance (PIP) benefits from defendant. Relevant to this appeal, the application for plaintiff's insurance policy contained three questions concerning the suspension status of his driver's license:

6. Do you or your spouse currently have a suspended, expired or revoked license?

7. Do any other rated household members, currently have a suspended, expired or revoked license?

8. In the past three (3) years, have you or any rated household member had your driver's license suspended or revoked?

Plaintiff answered "No" to all three questions. After plaintiff made a claim for PIP benefits, defendant discovered that plaintiff's license was suspended within the three years leading up to the date he filed the application. As such, defendant notified plaintiff that his policy was void *ab initio* and declined coverage. Plaintiff then initiated this lawsuit.

Plaintiff argued in the trial court that question 8 is ambiguous and he reasonably interpreted the question as asking whether the *initial date* on which his license was suspended occurred within the prior three years, not whether his license had the status of being suspended at any point within those three years. Plaintiff contended that, because the commencement of the suspension was more than three years before the date on which he filed his application, his response to question 8 was not a misrepresentation. The trial court disagreed, concluding that the question is not ambiguous, and that plaintiff made a material misrepresentation warranting rescission of the policy. It therefore granted defendant's motion for summary disposition. Plaintiff now appeals.

## II. STANDARDS OF REVIEW

This Court reviews a trial court's decision on a motion for summary disposition *de novo*. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). "Similarly, whether contract language is ambiguous is a question of law that we review *de novo*." *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 463; 663 NW2d 447 (2003). A motion for summary disposition under MCR 2.116(C)(10) "tests the factual sufficiency of a claim." *El-Khalil*, 504 Mich at 160 (emphasis omitted). "When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion." *Id.* "A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact." *El-Khalil*, 504 Mich at 160. "A genuine issue of material fact exists when the

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prior order granting summary disposition to defendant USA Underwriters. Because Avis and Doe are not parties to this appeal, USA Underwriters will be referred to as "defendant" for simplicity.

record leaves open an issue upon which reasonable minds might differ.” *Id.* (quotation marks and citation omitted).

### III. ANALYSIS

Plaintiff argues that the trial court erred by finding he made a material misrepresentation on his application for insurance because the question at issue is ambiguous. We disagree.

“[I]t is well settled that an insurer is entitled to rescind a policy *ab initio* on the basis of a material misrepresentation made in an application for no-fault insurance.” *21st Century Premier Ins Co v Zufelt*, 315 Mich App 437, 445; 889 NW2d 759 (2016). “Rescission is justified without regard to the intentional nature of the misrepresentation, as long as it is relied on by the insurer.” *Id.* at 446 (quotation marks and citation omitted). A misrepresentation is material if it impacts whether an insurer would have rejected the risk or charged an increased premium. See *Oade v Jackson Nat’l Life Ins Co of Mich*, 465 Mich 244, 255; 632 NW2d 126 (2001).

Because the intent behind the misrepresentation is irrelevant, *21st Century Premier Ins Co*, 315 Mich App at 446, the issue on appeal is whether question 8 is ambiguous. “An insurance contract is ambiguous when its provisions are capable of conflicting interpretations.” *Klapp*, 468 Mich at 467. But “courts cannot simply ignore portions of a contract in order to avoid a finding of ambiguity or in order to declare an ambiguity. Instead, contracts must be construed so as to give effect to every word or phrase as far as practicable.” *Id.* (quotation marks and citations omitted).

The trial court correctly read question 8 as asking whether, in the prior three years, plaintiff’s license had been revoked at any time. The fact that questions 6 and 7 ask about the *current* status of suspension and question 8 asks about suspension in the prior three years indicates that the subsequent question is a follow-up to its predecessors—that is, questions 6 and 7 ask whether any of the applicable individuals had their licenses *currently* suspended, while question 8 asks whether any of the applicable individuals had their license suspended within the last three years of the application.

Because the question is not ambiguous, plaintiff’s response was false and a misrepresentation. Furthermore, the misrepresentation was material because defendant’s chief underwriter attested that defendant did “not issue policies to individuals with known driver’s license suspensions in the three years prior to the policy application.” Finally, in issuing the policy, defendant necessarily relied on this misrepresentation. *21st Century Premier Ins Co*, 315 Mich App at 446. Therefore, the trial court correctly determined that defendant was entitled to rescind the policy on the basis of plaintiff’s material misrepresentation.

Affirmed.

/s/ James Robert Redford

/s/ Thomas C. Cameron

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Before: REDFORD, P.J., and CAMERON and PATEL, JJ.

PATEL, J. (*dissenting*).

I disagree with my colleagues that question #8 in USA Underwriters’ application for insurance is unambiguous. I would hold that a reasonable juror could conclude that plaintiff reasonably interpreted the question to mean whether his license revocation occurred within three years of the application. Accordingly, I dissent.

USA Underwriters’ insurance policy application included three questions about the suspension status of the applicant’s driver’s license:

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6. Do you or your spouse currently have a suspended, expired or revoked license?

7. Do any other rated household members, currently have a suspended, expired or revoked license?

8. In the past three (3) years, have you or any rated household member had your driver's license suspended or revoked?

Plaintiff answered "No" to all three questions.

The dispute in this case centers on plaintiff's response to the third question. Plaintiff completed the insurance application in February 2023. His license was suspended on October 20, 2018. That suspension lasted until March 17, 2021. Plaintiff's license was reinstated on December 8, 2022. Plaintiff attested that because his license was suspended in October 2018, more than three years prior to his February 2023 application for insurance, he reasonably believed his response was truthful. He did not interpret the question to mean whether he possessed a suspended license within that time.

The majority holds that question 8 is unambiguous and directs an applicant to answer whether they were in possession of a suspended license at any time during the three years prior to the date of the application. I disagree. The question "have you had your driver's license suspended" in the past three years is a separate and distinct inquiry from "have you had a suspended driver's license" in the past three years. The first can be read as asking about the timing of a specific action: the suspension of your driver's license. The date a license is suspended is not the same thing as having a suspended license. If USA Underwriters intended to ask whether the applicant had a suspended license anytime within three years prior to the date of application, it could have easily asked that question. But that is not what question 8 poses. Instead, question 8 asks whether "In the past three (3) years, have you or any rated household member had your driver's license suspended or revoked?" This question can be reasonably interpreted to mean whether the initial suspension occurred sometime within the past three years. At the very least, this question is ambiguous, and plaintiff's good faith answer to the question does not provide grounds to revoke his policy *ab initio*.

The majority cites Questions 6 and 7 as informing the meaning of question 8 unambiguous, reasoning that, since Questions 6 and 7 deal with a currently expired or suspended license, question 8 must be asking about whether the applicant had a suspended license in the past three years. But this analysis diverges from the actual language of question 8, which is the best way to determine its meaning. As stated above, if USA Underwriters meant to ask whether the applicant had a suspended or revoked license within three years of the date of the application, it could have easily and clearly asked that question. Question 8 instead asks whether the applicant had their license revoked in the past three years, a different inquiry entirely. Ambiguous language should be construed against the drafter, in this case, USA Underwriters. *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 472; 663 NW2d 447 (2003).

I would hold that the trial court erred by holding that question 8 in the application is unambiguous and required plaintiff to answer whether he had a suspended license anytime during

the three years prior to the application date. Instead, I would hold that a reasonable juror could conclude that plaintiff reasonably interpreted the question to mean whether his license was initially revoked anytime within the past three years. To the extent this language is ambiguous, it should be construed against USA Underwriters; it should not be used as evidence that plaintiff made a material misrepresentation on his application. There is no justification to revoke plaintiff's policy of insurance *ab initio* and deny coverage after the accident. I dissent.

/s/ Sima G. Patel