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CASE SUMMARY: PASSENGER WHO SUDDENLY GRABS THE WHEEL IS NOT COVERED BY DRIVER'S INSURANCE POLICY

A passenger who suddenly and without warning grabs the steering wheel while moving, causing an accident, is not covered by the driver's insurance policy because the passenger did not have the insured driver's consent to drive.

Insurance law – Automobile insurance – Care custody or control of motor vehicle – Underinsured motorist – Uninsured motorist – Third parties – Bad faith – Practice – Summary judgments

[McKay v. Park](#), [2018] O.J. No. 6521, 2018 ONSC 7346, Ontario Superior Court of Justice, December 7, 2018, H. McArthur J.

This summary judgment motion involved two insurance companies disputing who should compensate the plaintiff, who was injured in a car accident.

The defendant was driving her car and arguing with her boyfriend, seated in the passenger seat. Suddenly and without warning, the boyfriend grabbed the steering wheel, causing the car to lose control and collide with the plaintiff's vehicle.

The driver was insured under a standard automobile OAP1 policy through State Farm Mutual Automobile Insurance Company ("State Farm"). The plaintiff was insured under TD Home and Auto Insurance Company ("TD")'s uninsured and underinsured motorist coverage ("UIM").

State Farm successfully brought a motion for summary judgment, arguing that the driver was not liable and seeking a determination that the boyfriend was not covered by the driver's insurance, therefore, the plaintiff would be covered by TD's UIM.

The court found that the driver was not liable as she did not have possession of the car at the time of the accident because her boyfriend had grabbed the steering wheel suddenly, impulsively and without her consent. The boyfriend was not covered by the driver's insurance because he did not have her consent to drive the car. The driver was not contributorily negligent as it was not reasonably foreseeable that her boyfriend would grab the wheel.

This case was digested by [Erika L. Decker](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Erika L. Decker at edecker@harpergrey.com.