What it Means to "Occupy" a Vehicle in Wisconsin

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How can someone occupy a vehicle without being inside it? Seems like an oxymoron. There are a plethora of cases addressing what constitutes "use" of a vehicle.[1] There are far fewer cases dealing with what it means to "occupy" a vehicle. Yet, under most automobile policies, an unnamed insured must be "occupying" an insured vehicle to receive uninsured, underinsured, and medical payments benefits.[2] This article addresses the occupancy requirement for unnamed insureds in Wisconsin.

I. The Occupancy Analysis

The first step in the occupancy analysis is to determine whether an "insured vehicle" is involved. An insured vehicle can be identified on the declarations page or, in some cases, a temporary substitute[3] or a scheduled vehicle under a business auto policy.[4]

Once it is established that the involved vehicle meets the definition of an "insured vehicle," the next step is to determine whether the claimant was "occupying" the insured vehicle at the time of the injury. "In Wisconsin it is not necessary that an individual have physical contact with an automobile before that person can be labeled an occupant under an automobile insurance policy."[5] Most policies define "occupying" to mean "in, upon, getting in, on, out or off." Despite this rather seemingly clear language, whether the claimant was "occupying" the insured vehicle is not such a simple analysis.

While the definition of "occupying" may not appear ambiguous on its face, courts have held that it becomes ambiguous when determining the scope of coverage in individual fact situations.[6] "The ambiguity becomes apparent when it is necessary to determine what is meant by 'getting into' a motor vehicle. Does it mean that the party must be seated; have a portion of his or her body inside the vehicle; or have his or her hand on the door handle? This phrase, having more than one potential meaning, leaves the insured in a quandary as to the extent of his or her coverage."[7] Likewise, the word "upon" has been deemed ambiguous.[8]

II. The Vehicle Orientation Test

Wisconsin courts have developed a test to determine whether a claimant was "occupying" a vehicle for purposes of insurance coverage.[9] The test considers whether the claimant was vehicle-oriented or highway-oriented at the time of the injury.[10] "[A] person has not ceased 'occupying' a vehicle until he has severed his connection with it -- *i.e.*, when he is on his own without any reference to it. If he is still vehicle-oriented, as opposed to highway-oriented, he continues to 'occupy' the vehicle."[11] Courts consider three factors in determining whether a person is "vehicle-oriented" or "highway-oriented":

1. the nature of the act engaged in at the time of the injury;
2. the intent of the person injured; and
3. whether the injured person was within the reasonable geographical perimeter of the vehicle.[12]

The vehicle orientation test was developed over the course of several cases. A discussion of these cases follows.

a. Moherek v. Tucker

The first case in Wisconsin to adopt the vehicle orientation test was *Moherek v. Tucker*.[13] *Moherek* was an unusual fact pattern. Thomas Tucker picked up Rudolph Moherek and the two of them picked up two young ladies to give them a ride home.[14] Along the way, Tucker's car began to sputter and eventually stalled.[15] Moherek and Tucker tried to push the car to start it and when that did not work, they surmised that the car was out of gas.[16] Moherek flagged down a car to get gas and returned with the gas about thirty minutes later.[17] Despite adding gas, the car would still not start.[18] The two then flagged down another passing motorist, Warren Bradley, who agreed to use his vehicle to push the stalled car.[19] In order to preserve the integrity of the respective bumpers' aesthetic appearance, Moherek held a spare tire between the two vehicles' bumpers.[20] As this process got underway, another vehicle came upon the scene and struck the rear of the Bradley vehicle, which propelled it forward, pinning Moherek between the Tucker and Bradley vehicles.[21] This third vehicle was operated by Edwin Meinhert, an uninsured motorist.[22]

Moherek sued for uninsured motorist benefits under Tucker's automobile policy with American Standard Insurance Company of Wisconsin.[23] Coverage was afforded under the American Standard policy if Moherek was "occupying" the Tucker vehicle at the time of his injuries.[24] Occupying was defined under the American Standard policy as "in or upon, entering into or alighting from."[25]

The facts demonstrated that Moherek was not "in," "entering into," or "alighting from" the Tucker vehicle.[26] However, the court found that the word "upon" was ambiguous in that it could describe a host of circumstances, such as sitting on a bumper, a fender, or leaning back against the vehicle.[27] Because the word "upon" was ambiguous, the *Moherek* court looked to other jurisdictions for their analysis of "occupying" even if the person was not "in" the vehicle. The Wisconsin Supreme Court found the reasoning of a New York court to be persuasive as it identified a test to determine if the claimant was still occupying a vehicle at the time of the injury.[28]

In *Allstate Insurance v. Flaumenbaum*, a New York court concluded that one does not cease occupying a vehicle until "he has severed his connection with it – *i.e.*, when he is on his own without any reference to it."[29] If the claimant still has some connection to the vehicle, he is "vehicle-oriented" and still occupying the vehicle.[30] If the claimant has left the area of the vehicle and expressed intent to sever the connection with the vehicle, then the claimant is "highway-oriented" and not "occupying" the vehicle.[31] In order to determine if the claimant was "vehicle-oriented" or "highway-oriented," the *Flaumenbaum* court, relying upon a California case, identified two factors: (1) what was the claimant doing at the time of the injury and (2) what was the claimant's purpose and intent at that time of the injury.[32]

Applying the vehicle orientation test to the facts in *Moherek,* the Wisconsin Supreme Court concluded that Moherek never severed his relationship with the Tucker car: "Everything he did after getting out of the vehicle and especially at the time that his injury occurred had to do with trying to start the vehicle again so that he and his companions could continue their journey."[33] Since ambiguities are construed against the insurer and the word "upon" was ambiguous, the court had no trouble concluding that Moherek was "vehicle-oriented," and thus occupying the Tucker vehicle when he was injured.[34]

b. Sentry Insurance Company v. Providence Washington Insurance Company

The next case in Wisconsin to apply the vehicle orientation test was *Sentry Insurance Company v. Providence Washington Insurance Company*.[35] In *Sentry*, the plaintiff, Jerome Stujenske, was a back-seat passenger in Raymond Kurkowski's vehicle.[36] Stujenske exited Kurkowski's vehicle and then walked to the front of the vehicle in order to get over to the sidewalk.[37] When Stujenske was in front of the Kurkowski vehicle, the Kurkowski vehicle

was struck from the rear by an uninsured motorist.[38] The force of the impact pinned Stujenske between the front of the Kurkowski vehicle and another car.[39]

Stujenske sought uninsured motorist benefits from his own insurer (Sentry Insurance Company) which, in turn, sought indemnification from Kurkowski's insurer (Providence Washington Insurance Company) claiming that the latter provided primary uninsured motorist benefits.[40] Providence defended the subrogation claim by asserting that Stujenske was not occupying the Kurkowski vehicle at the time of his injuries.[41] The Providence policy defined "occupying" as "in or upon or entering into or alighting from."[42] The court found that Stujenske had not yet completed the act of "alighting from" the Kurkowski vehicle when the accident occurred:

> "Alighting from" must … extend to a situation where the body has reached the point when there is no contact with the vehicle. Where the act of alighting is completed is uncertain. It must be determined under the facts of each case, considered in the light of the purpose for which coverage is afforded. … It is reasonable to conclude that coverage was intended to protect a guest against the hazards from passing automobiles in the vicinity, while the guest, although not "in" or "upon" the vehicle, is still engaged in the completion of those acts reasonably to be expected from one getting out of an automobile under similar conditions.[43]

Since Stujenske had not completed severing his ties with the Kurkowski vehicle, he was still occupying the Kurkowski vehicle.[44] It seems reasonable to conclude that had Stujenske made it to the sidewalk, he would have the completed "alighting from" the vehicle and would no longer have been "vehicle-oriented."

c. Kreuser v. Heritage Mutual

In *Kreuser v. Heritage Mutual*, the Wisconsin Court of Appeals added a third factor to the vehicle orientation test.[45] In *Kreuser*, the plaintiff, Nancy Kreuser, was standing at the corner waiting to be picked up by a co-worker, John Hoffman.[46] Just as Hoffman was pulling into a parking lane, Kreuser was struck by a speeding motorcycle.[47] Kreuser was about ten feet from the Hoffman vehicle when the collision occurred and the motorcycle then struck Kreuser as she was about to get into the Hoffman vehicle.[48]

Hoffman's automobile insurer, Heritage Mutual, provided uninsured motorist benefits for unnamed insureds who were "occupying" an insured vehicle.[49] "Occupying" meant "in, on, getting into or out of."[50] The court concluded that Wisconsin law does not require a person to have physical contact with a vehicle in order to be an occupant as long as the injured person was "vehicle-oriented" at the time of injury.[51]

Previously, vehicle orientation was a two-prong analysis: (1) what was the nature of the act engaged in at the time of the injury; and (2) what was the intent of the person injured. The *Kreuser* court added a third requirement: a geographical proximity to the vehicle.[52] When considering this additional factor, the court concluded that Kreuser was "occupying" the Hoffman vehicle.[53] She was in close proximity to the Hoffman vehicle (less than 10 feet) when the impact occurred, she was beginning to turn to prepare to enter the Hoffman vehicle, her intent was to enter the Hoffman vehicle, and Hoffman regularly picked Kreuser up on that corner.[54]

d. Hunt v. Clarendon National Insurance Service

Hunt v. Clarendon National Insurance Service is another case that demonstrates that one need not physically be on or in a vehicle to be "occupying" it.[55] In *Hunt*, the plaintiff, 10-year-old Clairene Hunt, was injured when she was hit by a car while crossing the street after she left her school bus.[56]

Clairene's bus dropped her off at an uncontrolled intersection.[57] The bus then started to pull into the intersection to turn left.[58] Clairene walked towards the rear of the bus and proceeded to start to walk across the street when she was struck by an oncoming vehicle.[59] Clairene was within ten feet of the back of the bus when she was struck.[60] Clairene sought uninsured motorist benefits under the bus company's insurance policy issued by Clarendon National Insurance Service, Inc.[61] The policy provided coverage for a person "occupying" an insured vehicle.[62] "Occupying" was defined as "getting in, on or off."[63]

Applying the vehicle orientation test, the *Hunt* court held that Clairene was "occupying" the bus when she was struck.[64] The factors cited by the court were that Clairene had just exited the bus and started to walk behind it as she was taught to do.[65] Given that the objective in interpreting and construing insurance policies is to carry out the true intentions of the parties to the contract, the court concluded that in purchasing bus insurance, the insured would expect that a child exiting a bus and walking behind the bus as instructed would "come within the definition of occupying."[66]

III. Applying the Vehicle Orientation Test to Liability Coverage?

In an interesting twist, the Wisconsin Court of Appeals for District II applied the vehicle orientation test in *Brennan v. Lampereur*, an unpublished *per curiam* decision, to decide if passengers were "using" an insured vehicle so as to be entitled to liability coverage.[67] In *Brennan*, Colleen Lampereur was operating a vehicle with three passengers.[68] She failed to successfully navigate a dangerous curve and went into a ditch.[69] The passengers tried to push the vehicle out of the ditch, but could not.[70] A good samaritan came upon the scene and offered to pull the Lampereur vehicle out of the ditch.[71] The good samaritan attached a strap to Lampereur's vehicle and pulled it out of the ditch.[72] The good samaritan then left the scene and was never identified.[73]

A few moments later, Thomas Brennan and his wife, Peggy, came around the same curve.[74] Seeing the Lampereur vehicle and pedestrians either in or near the roadway, Mr. Brennan took evasive action and steered into the same ditch and struck a tree, causing injury to his wife.[75] Peggy sued, and a jury determined that Lampereur, her passengers, the good samaritan, and Mr. Brennan were all at fault for Peggy's injuries.[76]

Of relevance for this article was the court's treatment of liability of the passengers. At trial, the passengers testified that they were in the ditch when they saw Mr. Brennan approach, believed he was going to end up in the ditch based on his speed, and ran across the road to avoid being struck by the Brennan vehicle.[77] At issue was whether Lampereur's automobile insurer (State Farm) owed liability coverage to the passengers for their conduct in contributing to Peggy's injuries.[78] The State Farm policy defined an insured person as any "person while using such a car if its use is within the scope of consent."[79] In order to determine if the passengers were "using" the Lampereur vehicle, the court applied the vehicle orientation test.

Applying the facts of the case to the vehicle orientation test factors, the court concluded that the Lampereur passengers were "using" the Lampereur vehicle when Peggy was injured. Central to the court's conclusion were the following facts: the passengers initially attempted to push the Lampereur vehicle out of the ditch and when the towing operation commenced, they were waiting to re-enter the car and in fact, followed the car out of the ditch.[80]

The court noted that the passengers intended to re-enter the car and then continue on their way home.[81] They were not walking on the roadway after having abandoned the car.[82] As such, the court concluded that the Lampereur passengers were still "vehicle-oriented" and State Farm was obligated to provide coverage for their negligence as found by the jury.[83]

IV. No Coverage for Highway-Oriented Pedestrians

Not every accident involving a vehicle necessarily means that a person is "vehicle-oriented." For

example, in *Estate of Anderson v. Pellett*, Steven Anderson and Dorothy Callaway were riding on Anderson's motorcycle, when Anderson lost control and laid down the bike.[84] Callaway was thrown from the bike about fifty feet.[85] As Anderson began to walk towards Callaway to check on her, a vehicle struck the motorcycle, sending it "flying past them," and then the vehicle struck Anderson.[86] He later died of his injuries.[87] Anderson's estate sued the driver and the insurer of the vehicle that killed Anderson, and also made a claim under Anderson's UIM policy with Badger Mutual Insurance Company.[88]

Badger Mutual's policy contained an exclusion that precluded UIM benefits where the insured was "occupying" any motorized vehicle that had fewer than four wheels.[89] The policy defined "occupying" as "in, upon, getting in, on, out or off."[90] Whether UIM coverage was afforded was based on whether Anderson was "occupying" the motorcycle at the time he was struck.[91]

Applying the vehicle orientation test, the court concluded that Anderson was not "vehicle-oriented."[92] Critical to the court's conclusion were the following facts: First, Anderson was walking away from the motorcycle which was about fifty feet behind him when he was struck.[93] Second, he was talking to his passenger and expressing concern as to her wellbeing, as opposed to expressing concern about getting back onto the motorcycle.[94] Third, roughly five minutes had passed between the time that Anderson and Callaway were thrown from the motorcycle and the time that Anderson was struck.[95] Based on these facts, Anderson was highway-oriented, not vehicle-oriented, when he was injured. Accordingly, Anderson was not "occupying" the motorcycle and the exclusion did not apply.[96]

Larson v. Continental Casualty Insurance Company is another good example of a "highway-oriented" case.[97] Mary Larson and Shane Brickner were employees of Cap and Sons Construction.[98] Their company's van dropped them off at or near a construction site.[99] About thirty seconds later, after the company van was less than a block away, the two were struck by another vehicle as the two crossed the street. They both sought underinsured motorist benefits under their employer's automobile policy issued by Continental Casualty Insurance Company.[100]

The Continental policy provided coverage for anyone "occupying a covered auto."[101] The policy defined "occupying" as "in, upon, getting in, on, out or off."[102] Continental brought a motion for summary judgment arguing that Larson and Brickner were not "occupying" the covered auto and thus not insureds.[103] The motion was granted and affirmed on appeal.[104]

In analyzing the case law, the appellate court noted that in the cases where the injured claimants were found to be vehicle-oriented (*Moherek*, *Kreuser* and *Sentry*), the injured claimants were found to be in close proximity to the vehicle.[105] However, in the case before it, the two injured claimants were not in close proximity to the company van and had no other connection to it at the time they were injured.[106]

When Larson and Brickner were struck, they were no longer vehicle-oriented.[107] They were highway-oriented pedestrians.[108] They had already been dropped off at the construction site and the company van was a distance away from them.[109] There simply were no facts to support a contention that they were "in, upon, getting in, on, out or off" of the company van.[110]

V. The Vehicle Orientation Test and Medical Payments Coverage

Under some automobile policies, an unnamed insured must be "occupying" an insured vehicle to receive medical payments benefits. One such case was *Austin-White v. Young*.[111] In *Austin-White*, the plaintiff was assisting Todd Young with some landscaping.[112] Young decided to scrap an inoperable dump truck and instructed the plaintiff to wait next to a pickup truck.[113] Young removed the tailgate from the dump truck and loaded it onto a bobcat skid-steer, intending to load the tailgate onto the pickup truck.[114] As Young approached the pickup truck with the skid-steer, the plaintiff (who

had been leaning on the pickup truck's driver's side door), began walking towards the passenger side to get out of Young's way.[115] However, the tailgate fell off the skid-steer and landed on the plaintiff.[116]

None of Young's vehicles were insured.[117] The plaintiff sought coverage under his parents' policy with Austin Mutual Insurance Company.[118] The Austin Mutual policy had liability, medical payments, and uninsured motorist coverage.[119] The court concluded that uninsured motorist coverage was available to the plaintiff, as Young was using the pickup truck which was uninsured and the plaintiff was injured by an uninsured motorist, *i.e.*, Young.[120]

The court next turned its attention to the medical payments coverage provision.[121] Like uninsured motorist coverage, the Austin Mutual policy extended benefits only where the insured was "occupying" the vehicle.[122] Occupying was defined as "in, upon, getting in, on, out, or off."[123] The court noted that the facts did not support a finding that the plaintiff was "occupying" the pickup as "he was walking around to the passenger side of the truck. He was not in the truck, upon the truck, or getting into, onto, out of, or off of the truck."[124] In fact, he had not alighted from the truck at all, as he was never in the truck.[125] Nor was he in the process of getting into the truck.[126] The court noted that even if the plaintiff was leaning up against the truck at the time of the incident, he would not be "occupying" the vehicle.[127] The facts demonstrated that the plaintiff was simply near it and then began to walk away from it.[128] Since the plaintiff was not "occupying" the truck at the time of his injury, he was not an insured for purposes of the medical payments coverage under the Austin Mutual policy.

VI. Jury Instructions and Verdict Form Issues

When faced with trying the "occupying" issue, the content and form of the jury instructions and verdict form are important. *National Casualty Company v. Jackson,* while a curious result, reminds the practitioner of the importance of the language of the instructions and verdict. The facts of *National Casualty* seem to suggest a vehicle-oriented conclusion, yet the jury reached the opposite result.[129] The verdict was affirmed on appeal, despite challenges to the instructions and verdict.[130]

In *National Casualty*, Robert Jackson was standing in the street, in front of a van, when he was struck by a passing automobile.[131] Jackson was looking under the van's hood trying to determine why the van's engine was emitting smoke.[132] Jackson turned and started to walk to the side of the van when he was struck.[133] Jackson sued the driver that hit him and then sought underinsured motorist benefits under the van's insurance policy issued by National Casualty Company.[134]

The National Casualty policy provided underinsured motorist benefits to anyone "occupying" the van while it was out of service.[135] The policy defined "occupying" as "in, upon, getting in, on, out or off."[136] The jury was instructed that they were to decide if Mr. Jackson was "occupying" the van.[137] The jury was then instructed as to the policy's definition of "occupying."[138] On the special verdict form, the jury was asked if Jackson was an "occupant" of the van at the time of the accident.[139] They concluded that he was not.[140] On appeal, Jackson challenged the verdict form and the instructions given to the jury.[141]

The appellate court rejected Jackson's challenge to the instructions and special verdict form, concluding that they fully and fairly informed the jury as to the law that applied to the case.[142] The jury instruction used, and salient parts of the verdict form, are reproduced in the opinion, and provide a useful guide for practitioners on both sides of the issue to formulate appropriate instructions and verdicts for a trial on this issue.

VII. Conclusion

When confronted with a claim where the claimant must be "occupying" an insured vehicle, the claimant's actions and intention, along with the claimant's proximity to the insured vehicle at the time of injury, must be considered. In general, if the claimant is about to enter or is just exiting the insured vehicle, it is more likely that the claimant will be

deemed "vehicle-oriented," and thus occupying the insured vehicle. However, if the claimant has exited the vehicle (either voluntarily or involuntarily) and is not intending to immediately re-enter the vehicle, it is more likely that the claimant will be deemed a "highway-oriented" pedestrian and not occupying the insured vehicle.

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References

1 The term "use" is "a broad term that is given a liberal construction." *Garcia v. Regent Ins. Co.*, 167 Wis. 2d 287, 296 (Ct. App. 1992); *Progressive N. Ins. Co. v. Jacobson*, 2011 WI App 140, ¶ 12, 337 Wis. 2d 533, 804 N.W.2d 838.
2 Wisconsin law holds that the "occupancy" requirement is not valid as to a named insured. Wis. Stat. § § 632.32(6)(b)2.a.; s*ee also Mau v. North Dakota Ins. Reserve Fund*, 2001 WI 134, ¶ 34, 248 Wis. 2d 1031, 637 N.W.2d 45.
3 *See*, *e.g.*, *Nat'l Cas. Co., v. Jackson*, 2002 WI App LEXIS 598, 2002 WI App 165, ¶3 n.1, 256 Wis. 2d 694, 647 N.W.2d 468 (unpublished *per curiam* decision).
4 *See*, *e.g.*, *Lisowski v. Hastings Mut. Ins. Co.*, 2009 WI 11, ¶ 12, 315 Wis. 2d 388, 759 N.W.2d 754.
5 *Kreuser v. Heritage Mut. Ins. Co.*, 158 Wis. 2d 166, 172, 461 N.W.2d 806 (Ct. App. 1990). (citing *Sentry Ins. Co. v. Providence Washington Ins. Co*., 91 Wis. 2d 457, 283 N.W.2d 455 (1979)).
6 *Id.* at 173.
7 *Id*.
8 *Moherek v. Tucker*, 69 Wis. 2d 41, 230 N.W.2d 148 (1975).
9 *Id*.
10 *Id*.
11 *Moherek v. Tucker*, 69 Wis. 2d 41, 230 N.W.2d 148 (1975) (quoting *Allstate Ins. Co. v. Flaumenbaum*, 62 Misc. 2d 32, 46, 308 N.Y. Supp. 2d 447 (1970)).
12 *Kreuser*, 158 Wis. 2d at 173.
13 *Moherek*, 69 Wis. 2d 41.
14 *Id.* at 42.
15 *Id*. at 43.
16 *Id*.
17 *Id*.
18 *Id*.
19 Ironically, Warren Bradley was the father of one of the two young ladies Tucker and Moherek were in the process of driving home. *Id*. at 43.
20 *Id*.
21 *Id*.
22 *Id*.
23 *Id.* at 43-44.
24 *Id*. at 44.
25 *Id.*
26 *Id*. at 45.
27 *Id.* at 46.
28 *Id.*
29 *Flaumenbaum*, 62 Misc. 2d at 46.
30 *Id*.
31 *Id*.
32 *Id*.
33 *Moherek*, 69 Wis. 2d at 49.
34 *Id*.
35 *Sentry*, 91 Wis. 2d 457.
36 *Id*. at 458.
37 *Id*.
38 *Id.* at 458-59.
39 *Id*. at 459.
40 *Id*.
41 *Id*.
42 *Id.*
43 *Id.* at 460.
44 *Id*.
45 *Kreuser*, 158 Wis. 2d at 173.
46 *Id*. at 168.
47 *Id*. at 169.
48 *Id*. at 170.
49 *Id*.
50 *Id*.
51 *Id*. at 172-73 (*citing Sentry*, 91 Wis. 2d at 460).
52 *Id*. at 173-74.
53 *Id*.
54 *Id*.
55 *Hunt v. Clarendon Nat'l Ins. Serv.*, 2005 WI App 11, 278 Wis. 2d 439, 691 N.W.2d 904.
56 *Id*. ¶ 5.
57 *Id*.
58 *Id*.
59 *Id*.
60 *Id*.
61 *Id*. ¶ 6.
62 *Id*. ¶ 24.
63 *Id*.
64 *Id*. ¶ 26.

65 *Id*.
66 *Id*. ¶ 30.
67 *Brennan v. Lampereur*, 1999 WI App LEXIS 1342, 2000 WI App 32, 232 Wis. 2d 556, 608 N.W.2d 436 (unpublished *per curiam* decision).
68 *Id*.
69 *Id*. ¶ 2.
70 *Id*. ¶ 3.
71 *Id*.
72 *Id*.
73 *Id*.
74 *Id*. ¶ 4.
75 *Id*.
76 *Id*. ¶ 5.
77 *Id*. ¶ 12.
78 *Id*. ¶ 10.
79 The court's use of the vehicle orientation test in a liability context is interesting given its citation to *Garcia v. Regent Ins. Co.*, 167 Wis. 2d 287, 481 N.W.2d 660 (Ct. App. 1992) and Wisconsin's recognition of the broad construction of the term "using." Yet, the vehicle orientation test does help to clarify if the passengers were oriented to the State Farm insured vehicle as opposed to simply being near it.
80 *Id*. ¶ 17.
81 *Id*.
82 *Id*.
83 *Id*.
84 *Estate of Anderson v. Pellet (In re Estate of Anderson)*, 2006 WI App 151, 295 Wis. 2d 243, 720 N.W.2d 124.
85 *Id*. ¶ 2.
86 *Id*. ¶¶ 3-4.
87 *Id*. ¶ 4.
88 *Id*. ¶ 5.
89 *Id*. ¶ 7.
90 *Id*.
91 *Id*.
92 *Id*. ¶ 18.
93 *Id*. ¶ 13.
94 *Id*.
95 *Id*.
96 *Id*. ¶ 18.
97 *Larson v. Cont'l Cas. Ins. Co.*, 1997 WI App LEXIS 623, 212 Wis. 2d 240, 568 N.W.2d 784 (Ct. App. 1997) (unpublished *per curiam* decision).
98 *Id*. at *1.
99 *Id*. at *2.
100 *Id*.
101 *Id*.
102 *Id*.
103 *Id*.
104 *Id*. at *2, 7.
105 *Id*. at *4-5.
106 *Id*. at *5-6.
107 *Id*.
108 *Id*. at *6.
109 *Id*.
110 *Id*.
111 *Austin-White v. Young,* 2005 WI App 52, 279 Wis. 2d 420, 694 N.W.2d 436.
112 *Id*. ¶ 2.
113 *Id*. ¶¶ 2-3.
114 *Id*. ¶ 4.
115 *Id*.
116 *Id*.
117 *Id*. ¶ 5.
118 *Id*.
119 *Id*.
120 *Id*. ¶¶ 7-15.
121 *Id*. ¶¶ 16-19.
122 *Id*.
123 *Id*. ¶ 16.
124 *Id*. ¶ 18.
125 *Id*. ¶¶ 18-19.
126 *Id*.
127 *Id*. ¶ 18 n.3.
128 *Id*. ¶¶ 18-19.
129 *National Casualty*, 256 Wis. 2d 694, ¶ 6.
130 *Id*. ¶ 20.
131 *Id*. ¶¶ 2, 5.
132 *Id*. ¶ 5.
133 *Id*.
134 *Id*. ¶¶ 2-3.
135 *Id*. ¶ 3.
136 *Id*.
137 *Id*. ¶¶ 8-10.
138 *Id*.
139 *Id*. ¶¶ 15-18.
140 *Id*.
141 *Id*. ¶ 6.
142 *Id*. ¶ 10.