

MICHIGAN NO-FAULT UPDATE

Michigan Supreme Court Issues Long-Awaited Rulings on Unlawful Taking

KEY HOLDING

Simply driving without a license is not enough to bar PIP benefits. The Michigan Supreme Court has clarified that the statutory inquiry under MCL 500.3113(a) turns on how the vehicle was *taken* — not how it was *driven*.

This is a significant and far-reaching clarification. Carriers can no longer rely solely on a claimant's lack of a valid license to defeat a PIP claim at the summary disposition stage. The inquiry must go deeper into the circumstances surrounding how the vehicle was actually obtained

BACKGROUND: THE STATUTE AND THE CONFUSION IT CREATED

MCL 500.3113(a) bars PIP benefits when a claimant was operating or using a vehicle that was "taken unlawfully," and the claimant knew or should have known it had been taken unlawfully. For years, courts and practitioners disagreed over how broadly to read that language, specifically, whether unlawful *operation* of a vehicle, such as driving without a license, could satisfy the statute's "taken unlawfully" threshold. That question has now been answered definitively.

THE CASE THAT STARTED IT: *SWOOPE V. CITIZENS*:

On the morning of October 28, 2020, Carlonda Naishe Swoope was at the home of her friend, Kandice Valentine, when she received a call from her mother reporting chest pain and a delay in ambulance arrival. In response, Swoope took Valentine's car keys and drove toward her mother's residence without first seeking or obtaining Valentine's permission, and despite never having previously driven the vehicle. While en route, she was involved in a motor vehicle accident. At the time of the incident, she did not possess a valid driver's license and did not have automobile insurance.

Swoope filed a PIP claim through the Michigan Assigned Claims Plan, which assigned her case to Citizens Insurance Company of the Midwest. The insurer denied coverage, arguing her claim was barred under MCL 500.3113(a) because she had taken the vehicle unlawfully without a reasonable belief she was permitted to do so. The trial court denied the insurer's motion for summary disposition. On appeal, the Court of Appeals reversed, reasoning that because Swoope was driving without a valid license, a criminal offense under the Michigan Vehicle Code, she was unlawfully *operating* the vehicle, and that alone was sufficient to disqualify her from PIP benefits. The appellate panel relied in part on dicta from *Ahmed v. Tokio Marine America Ins. Co.*, which had suggested that any criminal law violation leading to the taking of a vehicle would constitute an unlawful taking.

THE SUPREME COURT'S RULING: *Swoop-ing* Previous Rulings

On March 10, 2026, the Michigan Supreme Court unanimously reversed. Writing for the full bench, Justice Kyra H. Bolden held that the Court of Appeals had conducted the wrong inquiry entirely. The operative phrase in MCL 500.3113(a) is "taken unlawfully", and *taking* a vehicle is not the same thing as *driving* it. The statutory analysis focuses on how the claimant obtained *possession* of the vehicle, ***not on whether the subsequent operation was lawful***. An unlicensed driver's status provides no insight into whether possession was gained contrary to Michigan law. To the extent *Ahmed* suggested otherwise, the Court expressly held it was wrongly decided.

This is a significant and far-reaching clarification. Carriers can no longer rely solely on a claimant's lack of a valid license to defeat a PIP claim at the summary disposition stage. The inquiry must go deeper into the circumstances surrounding how the vehicle was actually obtained.

Importantly, however, the Court did not rule that Swoope was entitled to PIP benefits. The case was ***reversed and remanded*** to the Court of Appeals to address the question the panel never properly reached: whether Swoope's act of taking Valentine's car without permission constituted an unlawful taking under the correct legal framework. That question remains open.

Critically, the Court did not rule that Swoope was entitled to PIP benefits. The Court rejected prior contrary reasoning and clarified that the focus must be on how possession was obtained. However, the Court did not award benefits, instead remanding for determination of whether the claimant's taking of the vehicle without permission was unlawful under the correct framework.

STATUTORY HISTORY & WHY PRIOR CASE LAW STILL CONTROLS

The Court grounded its holding in a careful reading of the statute's history. The Legislature amended MCL 500.3113(a) in 2014, changing "using" to "willingly operating or willingly using" and replacing a safe harbor for those who reasonably believed they were entitled to take the vehicle with a disqualification for those who knew or should have known the vehicle was taken unlawfully. Critically, however, the phrase "taken unlawfully" was left unchanged.

Because that phrase carried the same meaning it always had, the Court held that its two prior decisions interpreting it remain fully instructive. In *Spectrum Health* (2012), the Court held that a vehicle is taken unlawfully when someone gains possession of it contrary to Michigan law, including situations where the owner has expressly forbidden another person from using it. In *Rambin* (2014), the Court added that where no express prohibition exists, a driver's intent at the time of the taking is relevant, and a driver is entitled to present evidence that they reasonably believed they had authority to take the vehicle. Both decisions require courts to focus on the circumstances at the moment of the taking, not on what happened afterward.

WHAT GALES CONFIRMS

The Court of Appeals' 2025 decision in *Gales v. Auto Club Group Insurance Company* fits squarely within the framework *Swoope* confirmed. In *Gales*, the plaintiff was still barred from PIP recovery, but critically, not because she was unlicensed. She was denied benefits because she lacked actual permission to use the vehicle and had no meaningful factual basis for believing she was authorized to take it. Her claimed belief in permission rested on an assumption, not evidence.

Gales is an important reminder of what *Swoope* leaves fully intact: the absence of genuine permission remains independently dispositive. Taken together, these two decisions establish a clear, possession-based framework:

An unlicensed driver who had/has actual permission to use the vehicle will likely remain eligible for PIP benefits. Any driver licensed or not, who took the vehicle without authorization will likely be barred. The focus is on the nature and legitimacy of the claimant's possession at the time of the taking, not on their licensure status.

A SEPARATE STANDARD FOR UM/UIM: CATER V. POWELL

The analysis becomes considerably more nuanced when uninsured or underinsured motorist claims arise from the same accident, as illustrated by the February 6, 2026, *unpublished* decision in *Cater v. Powell*. The Court in *Cater* confirmed a foundational distinction that practitioners must keep front of mind: UM/UIM coverage is not governed by the No-Fault statute. It is purely contractual and enforced strictly as written in the policy.

In *Cater*, the relevant policy excluded coverage where the insured was using a vehicle without a "reasonable belief" that they were *entitled* to do so. This language proved decisive. Even though the plaintiff had received permission from the vehicle's owner, which would likely have preserved his PIP claim under the *Swoope* framework, the Court held that his lack of a valid driver's license meant he could not have reasonably believed he was legally *entitled* to operate the vehicle. Permission from the owner was not enough to satisfy the policy's entitlement standard. UM benefits were denied.

THE PRACTICAL DIVIDE AT A GLANCE

Claim Type	Governing Law	Key Focus	License Status
PIP	MCL 500.3113(a)	How possession was obtained	NOT dispositive alone
UM/UIM	Insurance Policy	Legal entitlement under policy	CAN be dispositive

A single claim can survive PIP scrutiny under *Swoope* while remaining fully vulnerable to UM/UIM denial under the reasoning in *Cater*. This is not a theoretical distinction, it has direct implications for how claims are evaluated, how motions are framed, and how litigation strategy is developed from the outset.

STRATEGIC TAKEAWAYS

For carriers, defense counsel, and claims professionals, these decisions reward careful, layered analysis. Every claim involving an unlicensed driver, or any question about whether the vehicle was taken with authorization, now requires two separate inquiries:

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- One under the statute: focused on the lawfulness of the taking and the circumstances at the moment of possession.
 - One under the policy: focused on whether the claimant was legally entitled to operate the vehicle under the policy's specific language.

As courts begin applying *Swoope*, *Gales*, and *Cater* together, we expect continued development in how Michigan courts handle mixed PIP and UM/UIM claims. Staying ahead of that development will be essential for effective claim management and motion practice.

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MORE INFORMATION

Our team is available to discuss claim evaluation, motion strategy, and ongoing litigation. Please contact your MBL attorney with immediate questions or concerns.