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CASE SUMMARY: OCCASIONAL PAYMENTS FROM AN ACQUAINTANCE DID NOT EXCLUDE COVERAGE AFTER THE INSURED'S VEHICLE WAS STOLEN AT GUNPOINT

Occasional payments from an acquaintance for trips in the insured's vehicle did not fall within the carrying of passengers for compensation or hire exclusion.

Insurance law – Automobile insurance – Exclusions – Commercial use vehicle – Statutory provisions [interpretation]

Bonn v. Echelon Insurance, [2021] N.S.J. No. 59, 2021 NSSM 2, Nova Scotia Small Claims Court, February 8, 2021, Adjudicator A.M. Richardson, QC

The insurer denied coverage based on the carrying of passengers for compensation or hire exclusion after the insured's vehicle was stolen at gunpoint. The insurer took the position that the insured's statement after the theft demonstrated he had a habit of accepting payments from an acquaintance, who later stole the vehicle, to drive him about town.

The court disagreed. The court found that the insured would sometimes drive the acquaintance around town to various locations, but the acquaintance would not always give him money and when he did, there was no specific, set or agreed on amount, and there was no evidence that anyone else who ever sat as a passenger in the insured's vehicle gave him money. The court was satisfied that this situation fell within the saving provisions of the exclusion which recognized the blurred line between commercial and non-commercial uses of vehicles. In particular, the court found it fell within section (8)(3)(b) where "the occasional or infrequent use by the insured of his automobile for the carriage of another person who shared in the cost of the trip" was not deemed to be "the carrying of passengers for compensation or hire". The insurer's claim for material misrepresentation was dismissed for the same reasons. The insured was awarded damages in accordance with the cost to repair the later recovered vehicle, plus damages for loss of use.

This case was digested by [Michael J. Robinson](#), 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 Michael J. Robinson at mrobinson@harpergrey.com.