

CASE SUMMARY

Country Mutual Insurance Company v. Hartley,
65 P.3d 977 (Ariz. Ct.App. 2003)

On April 3, 2003 the Arizona Court of Appeals issued *Country Mutual Insurance Company v. Hartley*, 65 P.3d 977 (Ariz. Ct.App. 2003), holding that A.R.S. § 28-3160(D), which limits liability of a person who signs the application of a minor for a driver's license, does not abrogate the common law family purpose doctrine. This holding is significant because it reconfirms the broad effect the family purpose doctrine is given in Arizona. In addition, it is also a reminder that the liability the family purpose doctrine imposes is different liability from that which is imposed by A.R.S. § 28-3160(D). This letter summarizes the court's ruling and the broad effect the family purpose doctrine is given in Arizona.

BACKGROUND

This case involves a minor, Amanda, who was driving her vehicle when she negligently caused an accident in which several people were injured. Country Mutual Insurance Company ("Country Mutual") insured Amanda's vehicle for the minimum statutorily required amounts for bodily injury ("BI") limits of \$15,000/\$30,000. The victims' damages exceeded those amounts. The injured victim brought a claim against Amanda's parents under the family purpose doctrine. At the time of the accident, Amanda resided with her parents, whose two vehicles were insured by a Country Mutual policy with BI limits of \$100,000/\$300,000. Her parents signed her driving application as required under A.R.S. § 28-3160.¹ Country Mutual argued that A.R.S. § 23-3160(D) exonerated her parents from all liability because Amanda satisfied the financial responsibility requirement and thus, the statute prevents the victims from recovering under the family purpose doctrine.

THE COURT'S ANALYSIS

The court held that A.R.S. § 28-3160 did not abrogate the common law family purpose doctrine because: (1) the statutory liability differs from the doctrinal liability, (2) the

¹ A.R.S. § 28-3160 reads in pertinent part:

B. Negligence or willful misconduct of a minor when driving a motor vehicle on a highway is imputed to the person who signs the application of the minor for a permit or license. Except as otherwise provided in subsection D of this section, the person who signs the application is jointly and severally liable with the minor for damage caused by the negligence or willful misconduct.

D. The parents or guardian of a minor are not liable under subsection B of this section during the time proof of financial responsibility is maintained by the minor or on behalf of the minor in the form and in amounts required by law for the operation of a motor vehicle the minor owns, or if the minor is not the owner of a motor vehicle, for the operation of any motor vehicle.

legislature did not indicate any intention to abrogate the doctrine by enacting A.R.S. § 28-3160(D), (3) application of the statute does not require abrogation, and (4) case law supports application of the family purpose doctrine even in light of the statute.

Accordingly, A.R.S. § 28-3160 imposes liability on any person who signs a minor's driving application regardless of whose vehicle the minor drives or the purpose for which the vehicle is used. Subsection (D) exempts from liability "during the time proof of financial responsibility is maintained by the minor or on behalf of the minor" only those parents and guardians who signed the minor's driving application. In contrast, family purpose liability attaches to a family vehicle used for certain purposes: "The head of a family who maintains a motor vehicle for the use, pleasure, and convenience of that family is liable for the negligence of a member of the family who has the general authority to drive it while the vehicle is used for family purposes." *citing Brown v. Stogsdill*, 140 Ariz. 485, 487, 682 P.2d 1152, 1154 (Ariz. Ct.App. 1984); see also *Benton v. Regeser*, 20 Ariz. 273, 278, 179 P. 966, 968 (1919) (adopting the family purpose doctrine in Arizona). Further, the court emphasized that liability under the doctrine is not limited to minor drivers but **also extends to adult drivers** within the household. The statute relates to a minor's acquisition of a driver's license while the doctrine relates to use of a vehicle, and thus the liabilities they impose differ in nature and scope.

Secondly, the court held that the statute does not abrogate the family purpose doctrine because the legislature did not intend to deny, abrogate, or preempts the family purpose doctrine by enacting A.R.S. 28-3160. The court stated that the legislature must clearly indicate in the statute's text or in the history it intended to deny, abrogate, or preempt common law action. *Id.* at 979 citing *Hayes v. Continental Insurance Co.*, 178 Ariz. 264, 273, 872 P.2d 668, 677 (1994). Thirdly, the court maintained that the application of the statute to the family purpose doctrine does not abrogate it; rather, it only expands or supplements this common law protection. The fourth justification for the court's holding was based on the fact that Arizona case law² supports the application of the family purpose doctrine to cases subject to A.R.S. § 28-3160. Emphasizing this point the court states, "For seventy-five years, Arizona statutes provided that a minor driver's negligence is imputed to the person who signed the minors driving application. For fifty years, parents and guardians have been released from this liability if the minor maintains proof of financial responsibility." However, the court concluded that even in light of the statutory scheme, Arizona courts allowed the use of the family purpose doctrine in cases in which the minor family member was insured.

IMPLICATIONS OF THE HOLDING IN *COUNTRY MUTUAL V. HARTLEY*

The holding in this case is particularly significant to the issue of an insurers obligation extending not only to the driver but also to the "head of the household." This case is a strong reminder that the family purpose doctrine is still given a broad effect in Arizona. It is also a reminder that liability under the family purpose doctrine is different liability

² *Pesqueira v. Talbot*, 7 Ariz.App. 476, 478-80, 441 P.2d 73, 77-78 (1968); see also *Brown v. Stogsdill*, 140 Ariz. 485, 487, 682 P.2d 1152, 1154 (App.1984)

than that imposed by A.R.S. § 28-3160. While it is common to conclude that an owner is not liable unless he or she negligently entrusted the operation of a vehicle to a family member, however, in Arizona, there is no need to demonstrate negligent entrustment of the vehicle. The courts historical references to older case are significant because it is not merely the children that are included, but also the adults in the household.

Importantly, this opinion does not address the “other vehicle” exclusion in a policy. Most automobile policies have an “other vehicle” exclusion that states that the policy does not provide coverage for the use of other vehicles the insured owns which are not insured vehicles of that policy. Hence this opinion did not address whether the father’s liability under the family purpose doctrine for the daughter’s use of her car is excluded from the Country Mutual policy, if in fact, there was the “other vehicle” exclusion in the policy.

If you have any questions about this case, please contact [Jalana Dixon](#) or [David Bell](#) by email. If you would like to read the complete opinion from the Court of Appeals, [click here](#) to open the opinion in an Adobe Acrobat file.