

Mo. High Court Vacates \$5M Geico Payout In HPV Suit

By **Emily Enfinger**

Law360 (January 11, 2023, 6:04 PM EST) -- The Missouri Supreme Court vacated a \$5.2 million judgment over a woman's claim that she contracted HPV during sexual encounters in a Geico policyholder's car, finding that the insurer wasn't given the opportunity to intervene in the lawsuit before judgment was entered.

Geico was "statutorily entitled" to intervene in the lawsuit between the woman and the policyholder, the Supreme Court **ruled Tuesday**, because the insurer filed its motion to intervene before the judgment was entered by a Jackson County circuit court.

"Because Geico was not afforded the opportunity to intervene before judgment was entered, the circuit court's judgment is vacated, and the case is remanded," the state high court said.

The woman, who is identified in court filings as "M.O.," alleged that she contracted anogenital human papillomavirus during sexual encounters in a 2014 Hyundai Genesis owned by a Geico policyholder, identified as "M.B."

The woman sent a demand letter to Geico, asking the insurer to pay the applicable limits of M.B.'s insurance policy for the bodily injury, but Geico denied the claim.

According to court filings, the woman and the policyholder entered into an agreement in which her claims against him would be sent to arbitration and that she would only seek recovery of any judgment from his insurers.

After the arbitrator awarded the woman \$5.2 million, M.O. sued M.B. in circuit court. In July 2021, the circuit court entered a judgment confirming the arbitration award.

Although Geico had entered its motion to intervene prior to judgment, its motion wasn't granted until the same day judgment was entered, per court records. The insurer unsuccessfully attempted to have the circuit court vacate the judgment.

Geico appealed the circuit court's decision, but a **Missouri appeals court affirmed**.

In April 2021, Geico sued M.B. and the woman, seeking a declaratory judgment that it doesn't owe coverage for the bodily injury suit.

Geico has **argued** that the auto policy can't come into play "merely because that transmission is alleged to have occurred in the insured vehicle."

That action is still pending in Missouri federal court.

Representatives for the parties did not immediately respond to requests for comment.

M.O. is represented by David M. Mayer and Phillip Reed Martens of Monsees & Mayer PC.

Geico is represented by Douglas S. Beck, Taylor B. Markway, Sarah Lynn Baltzell, W. Clark Richardson and Michael Hayes of Shook Hardy & Bacon LLP.

The case is M.O. v. Geico General Insurance Co. et al., case number SC99732, in the Supreme Court of Missouri.

The declaratory action is Geico General Insurance Co. et al. v. M.O. et al., case number 4:22-cv-00082, in the U.S. District Court for the Western District of Missouri.

--Additional reporting by Josh Liberatore and Ganesh Setty. Editing by Emma Brauer.