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BETTER OFF DEAD

To many dedicated car collectors, automobiles have an identity, a manner of behavior and performance, and even a personality — making the vehicles seem as if they were almost alive. However, there are times when a collector is better off considering — or at least arguing — that his or her beloved automobile is “dead.”

This was the case in *Allstate Insurance Company v. Geiwitz*.

In 1984, Jeffrey Lee Geiwitz bought a “skeleton” 1970 Chevrolet Nova for restoration (or, perhaps in this instance, re-nova-tion). From the time the seller delivered the Nova to him, Geiwitz never drove the car, but proceeded to restore it for show purposes. In late 1985 or early 1986, following some body work and painting, a service station owner transported the car via trailer to the home of David and Patricia Cecil, where Geiwitz stored it. Geiwitz completed his restoration work there in January 1986. Geiwitz subsequently transported the car to and from a car show on a trailer.

Geiwitz continued to store the car in the Cecils' driveway, where he worked on it from time to time. Occasionally, he worked on the car in their garage. On the evening of March 8, 1986, Geiwitz drove the car into their garage to fix the gas gauge. While draining the gasoline from the Nova into a bucket, the bucket overflowed. The gasoline flowed toward a kerosene heater that Geiwitz had brought into the garage, lit, and positioned only ten feet away. The gasoline ignited, destroying the car and extensively damaging the

Cecils' property.

State Farm Fire and Casualty Company paid its insureds, the Cecils, \$124,841.85 for their property damage from the fire. State Farm then sued Geiwitz for reimbursement.

Because Geiwitz lived in his parents' household, he was an insured person under his parents' homeowner's policy with Allstate. The Allstate policy did not cover “property damage arising out of the ownership, maintenance, use, occupancy, renting, loaning, entrusting, loading or unloading of any motorized land vehicle.” However, the policy further provided that that exclusion did not apply to “a motorized land vehicle in dead storage or used exclusively on an insured premises.”

Allstate filed a lawsuit, asking the court to declare that its homeowner's policy did not cover this matter, based on the policy's automobile exclusion. The trial court, finding that the Nova had been in “dead storage,” ruled in favor of Geiwitz, his parents, the Cecils, and State Farm. Allstate appealed.

On April 3, 1991, the Court of Special Appeals of Maryland affirmed the trial court's ruling.

The appellate court focused on the definition and application of the “dead storage” concept. The court noted that, in the interpretation of insurance contracts, words are usually given their ordinary and accepted meanings. However, this will not be done where there is evidence that the parties intended to employ a term in a special or technical sense. The court concluded that the term “dead storage,” as it

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appears in insurance policies, is employed by parties in a technical sense or as a term of art and should be interpreted accordingly. The court therefore rejected Allstate's suggestion of defining the term by simply separating the two words "dead" and "storage" and combining the usual meaning of each.

Noting that Maryland courts had never addressed the issue of when a car is in "dead storage" for purposes of coverage under a homeowner's insurance policy, the court looked at what courts in other jurisdictions had done. Those courts had come to varying conclusions based on the particular facts presented, including the policy provisions involved. For example, they had differed on whether a car can undergo maintenance and still be in "dead storage."

Turning to the facts of this case, the court viewed as critical the fact that Geiwitz had kept the car as a collectible, as opposed to a means of transportation. Reviewing the language of the homeowner's policy, the court concluded that the purpose of the exclusionary clause was to disallow coverage for vehicles used for transportation on public roads, which would normally have to be insured under an automobile insurance policy. The court further concluded that, under the circumstances of the case, Geiwitz reasonably could have believed that the homeowner's policy would cover any damage from a vehicle kept as a collectible item rather than a means of transportation.

Rejecting Allstate's arguments, the court thus ruled that the fact that the car was operable, that Geiwitz occasionally moved it from one part of the Cecils' property to their garage to work on it, or that he was attempting to repair the gas gauge when the accident occurred did not change the status of the car as one in "dead storage" for purposes of coverage under the homeowner's policy.

Lawrence Savell is an attorney and writer in New York City. This column provides general information and is not intended as a substitute for consulting a lawyer.

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