

COA Opinion: Deductible on underlying no-fault policy does not alter the point at which payments from the Catastrophic Claims Association are triggered

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On June 15, 2010, the Court of Appeals issued its [consolidated per curiam opinion](#) in the cases of *American Home Assurance Company v. Michigan Catastrophic Claims Association*, No. 287153 and *Ace American Insurance Company v. Michigan Catastrophic Claims Association*, No. 292539. Both of these cases raised the question of the effect of a deductible (in the underlying insurance policy between a no-fault insurer and its policyholder) on the Michigan Catastrophic Claims Association's ("MCCA") statutory indemnification responsibility. Under MCL § 500.3104(2), the MCCA is obligated to indemnify member insurers for ultimate net loss that exceeds \$325,000. The MCCA had taken the position that member insurers could not include deductible amounts owed by policyholders in reaching the \$325,000 threshold. The Court of Appeals disagreed, ruling that the No-Fault Act held the insurer liable for the entire amount of no-fault benefits owed, regardless of the deductible, and therefore the entire amount of benefits paid count toward the statutory threshold, regardless of the existence of a deductible. However, the Court of Appeals did find that a member insurer must turn over the deductible amounts it receives from the policyholder, up to the amount the MCCA reimbursed the insurer. Additionally, the Court found that MCCA is subrogated to the insurer's rights to the deductible, and is entitled to pursue payment of that deductible if the insurer does not.