

NO. A06-1235

State of Minnesota  
In Supreme Court

Chong Suk Perry,

*Appellant,*

vs.

Auto Owners Insurance Company,

*Respondent.*

APPELLANT'S REPLY BRIEF

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## ARGUMENT

### **I. A Clear Difference Exists Between who is Considered a Dependent Under the No-Fault Act and What Economic Benefits are Provided for Under the Act.**

Reviewing Respondent's argument, particularly on page 12 of their brief, it seems that they are confusing what is a question of who is a dependent with whether the dependent has a claim under the No-Fault Act. The first question is the one at issue here. The second one is a recovery question which is typical of what the AAA arbitration system deals with on a daily basis as a fact issue.

### **II. The Minnesota No-Fault Act Intended to Provide Benefits to Surviving Dependents of the Decedent.**

Respondent Auto Owners argues that "expanding the definition of "dependent" to include all persons who may be able to prove some dependency on a decedent would open the door to claims that were never intended under the No-Fault Act." (Resp. Br. at 16). This argument, however, is without merit. Minnesota Statute §65B.44, subdivision 6 intends to provide for a decedent's surviving dependents whether they are presumed or provable. Clearly, this is not a situation where additional coverage is being created.

On the contrary, this is a situation where people in Minnesota are buying no-fault benefits which provide for dependent coverage at the time of their death. Respondent Auto Owners is collecting a premium for this coverage. The facts, case law and legislative intent support the position that this coverage already exists under the No-Fault Act. Consequently, Auto Owners must now live up to the policy it sold.

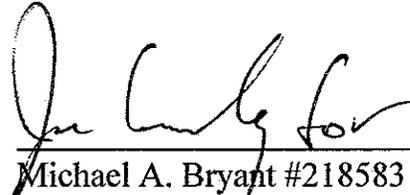
## CONCLUSION

Because legislative history demonstrates a clear intention to allow surviving dependents to prove their dependency and because allowing people like Ms. Perry to prove their dependency under the No-Fault Act will not open the door to claims that were never intended, this Court should allow Ms. Perry to pursue her claim for survivor's economic loss benefits under Mr. Savage's No-Fault policy.

Dated this 21st day of September, 2007.

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