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Time's Up: Limitations Period Began Running on Claim Once Insured Learned His Policy Had Expired

July 14, 2015
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McMorris v. Tally,No.2013-IA-01063-SCT (Miss. Sup. Ct. May 14, 2015)

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An insured, Tally, purchased a one-year farmers/ranchers liability insurance policy with American Reliable through defendant agent and his insurance agency. The policy was purchased in January 2006, and on March 23, 2006, one of American Reliable's general agents sent Tally a notice that it would not renew the policy. When the policy expired on January 29, 2007, Tally's farm had no coverage. On February 8, 2008, plaintiff motorcyclists were injured when they ran into one of Tally's donkeys that had escaped from his farm. Tally reported the accident to the agent and made a claim under his farmers/ ranchers policy. The agent informed Tally that his policy had expired on January 29, 2007. Although Tally was aware that he purchased only a one-year policy and that he had not paid any premiums for a renewal, Tally claimed that he never received notice that the policy would not be renewed and that he was uninsured until the February 2008 accident.

On March 19, 2008, Tally sent a demand letter to the agent stating that he now knew that his policy had expired, and he expected that his agency would "take care of the matter." The agency and American Reliable refused to provide coverage or take responsibility for the claim. On January 5, 2009, the underlying plaintiffs sued Tally for their injuries sustained in the accident with the donkey. But it was not until November 16, 2011 that Tally was granted leave to file a third-party complaint against the agent and American Reliable for a declaration that the carrier provide coverage for the accident and that the agent had breached the standard of care by not notifying Tally that the policy had not been renewed, and for an injunction requiring the agent and the carrier to provide a defense and coverage for the accident.

The agent and American Reliable moved for summary judgment based on the bar of the three-year general statute of limitations. The trial court denied the motions. The Supreme Court of Mississippi reversed and entered summary judgment in favor of the agent and the American Reliable.

Question Before the Court

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Did the period of limitations begin to run on the insured's claims against the agent and the carrier on the date when the insured learned that his farm had no insurance coverage?

Yes. The Mississippi Supreme Court cited to a line of cases that held that when an insured learns that there is a problem with an insurance policy or that no insurance policy is in effect, the statute of limitations begins to run. The Court also pointed out that the same cases had rejected the argument that Tally was making, *i.e.*, that the statute of limitations does not begin to run until an uninsured party is charged with an actual injury. The Court found that although Tally denied that he ever received the March 23, 2006 notice that his policy would not be renewed, it was undisputed that Tally knew by March 19, 2008, when he sent his demand letter to the agent stating that his policy had expired and his farm was not covered by any insurance policy. The Court also found that Tally could have brought an action seeking declaratory and injunctive relief against the agent and the carrier long before he was sued by the underlying plaintiffs for the accident with the donkey. Tally's claims against the agent and the carrier were ripe for adjudication as soon as he discovered that he had no liability coverage. It was not until three years later that Tally decided to assert a third-party claim against the agent and the carrier. By then, Tally's claim was time-barred under the three year statute of limitations.

What the Court's Decision Means for Practitioners

There was a well-reasoned dissent that argued that the limitations period did not start to run until the underlying action by the injured motorcyclists was filed against Tally, which would then trigger his claim for damages against the agent for breach of duty and give him three more years to file his claim against the agent. The majority, instead, focused on the service of the demand letter as the operable event and urged that it was Tally's burden to then file a declaratory judgment action when coverage was denied. The agent and his insurance agency would be well advised to review their office procedures for giving notice to customers when they learn in advance that policies are not going to be renewed by the carrier or are about to expire and leave the customer without any coverage.

For more information, please contact your regular Hinshaw attorney.