PLUNKETT COONEY

Minimum Liability Limits Under Michigan's No-Fault Act Update

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Minimum Liability Limits Under the No-Fault Act - Michigan

Progressive Michigan Ins. Co. v. Espinoza-Solis and Shkreli
No. 366764, 2024 WL 3075088 (Mich. Ct. App. June 20, 2024)

The Michigan Court of Appeals affirmed summary judgment for Defendant Gjovalin Shkreli (Shkreli), holding that Progressive Michigan Insurance Company (Progressive) must pay him up to the statutory minimum liability benefits of $250,000, despite the non-cooperation of Progressive's insured, Juan-Carlos Espinoza-Solis (Espinoza-Solis).

Defendants Espinoza-Solis and Shkreli were involved in an automobile accident on June 23, 2021 and Shkreli filed a negligence action against Espinoza-Solis. Espinoza-Solis maintained a Michigan No-Fault automobile insurance policy with Progressive, which retained counsel to defend him in the negligence action. After a breakdown in the attorney-client relationship, the retained counsel for Espinoza-Solis withdrew as his counsel. Shkreli then filed a motion for entry of default judgment, which the trial court granted, and a $250,000 judgment was entered against Espinoza-Solis.

Progressive subsequently brought this declaratory judgment action against Espinoza-Solis and Shkreli, seeking a declaration from the trial court that it had no duty to defend or indemnify Espinoza-Solis for the June 23, 2021 accident due to his noncooperation. Progressive later conceded that it was required to provide the minimum liability coverage for bodily injury, whether or not its insured complied with the cooperation provision of the policy. Progressive challenged, however, which statutory minimum applied.

Progressive argued the applicable statutory minimum was $20,000, as contemplated by MCL 257.520 (b)(2), or in the alternative, $50,000 pursuant to MCL 500.3009(5), while Shkreli argued the minimum is $250,000, under MCL 500.3009(1). The trial court entered summary judgment in favor of Shkreli, finding that Progressive was obligated to indemnify Espinoza-Solis in the amount of $250,000, which Progressive then appealed.

Under MCL 500.3009(5), an insured "may choose to purchase lower limits than required under subsection (1)(a) and (b), but not lower than $50,000" per person. MCL 500.3009(8) requires that the person named in the policy make "an effective choice under subsection (5)," otherwise, "the limits under subsection (1)(a) and (b) apply to the policy."

In this case, Espinoza-Solis had policy limits of $250,000, so he certainly did not choose limits of $50,000, as is required to apply lower liability limits under MCL 500.3009(8). Thus, the appellate court rejected the idea that the $50,000 limits under MCL 500.3009(5) would apply to the loss.

The appellate court next considered Progressive's argument that the $20,000 minimum under MCL 257.520(b)(2) would apply. Progressive argued that this statute determines the coverage that "must be afforded to protect the general public," while MCL 500.3009 deals only with the minimum coverages as a matter of contract law between an insurer and an insured. The appellate court also rejected this position, noting that MCL 257.520(b)(2) is contained within the financial responsibility act, while MCL 500.3009 is expressly incorporated into the No-Fault act. Further, the appellate court noted that MCL 500.3009 also exists under the No-Fault act to protect third parties and the general public. Thus, the appellate court concluded that MCL 500.3009 applied to the loss, not MCL 257.520(b)(2).

As MCL 500.3009 was the applicable statute and there was no indication Espinoza-Solis had opted for lower limits under MCL 500.3009(5), the appellate court concluded that MCL 500.3009(1) applied, and that Progressive was liable for the entire $250,000 judgment.

by Chelsea Saferian