

Delaware Supreme Court Holds that Employer is Free to Acquire Maximum Uninsured Motorist Coverage on a Company Car Solely for Key Personnel

Court Rejects UM Coverage for Employees and Permissive Users

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Insurance Coverage Alert

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On October 20, 2015, the Delaware Supreme Court, *en banc*, affirmed the trial court's holding that an employer may purchase Uninsured/Underinsured Motorist (UM) insurance on a company car for key personnel while rejecting this type of coverage for regular employees and other permissive users. In *Stoms v. Federated Service Insurance Company*, a Delaware limited liability company operating a group of automotive dealerships, purchased a commercial package policy (the Policy) from Federated Service Insurance Company (Federated) with the maximum allowable \$300,000 in UM coverage for directors, officers, partners or owners of the company (key personnel). However, the named insured expressly rejected UM coverage for any other person qualifying as an insured.

Statutory minimum coverage and Arbitrary discrimination

A "finance manager" employed at one of the named insured's dealerships was operating a company owned and insured vehicle when he was killed and, his minor child injured, by an uninsured motorist. Federated paid its full PIP limits under the Policy. However, after Federated's denial of UM coverage, Plaintiff filed suit arguing that the Delaware UM Endorsement to the Policy was void as against public policy because (i) it provided less than the statutory minimum coverage and (ii) it arbitrarily discriminated against regular employees and other permissive users of company owned vehicles by not affording any coverage whatsoever, while key personnel were provided maximum UM benefit limits.

The *Stoms* Court held that the Policy did not provide less than statutory minimum coverage levels and was not arbitrarily discriminatory. Rather, the named insured expressly rejected Federated's written offer, [under 18 Del. C. §3902], to purchase UM coverage for a broader class of insureds that would have included decedent and his child. Furthermore, the Policy met the minimum liability and PIP coverage limits under Delaware's Financial Responsibility Law, 21 Del. C. §2118. The *Stoms* Court ruled that, once statutory coverage requirements are met, a named insured is free to procure as much or as little optional UM insurance that it wants and to allocate such coverage among drivers as it chooses. The public policy behind the strict obligation of insurers to provide the full extent of auto coverage required by the Delaware Code does not apply to constrain parties contracting for supplemental insurance.

ambiguous policy language

In addition, plaintiff argued that the terms "director" and "officer," as used in the Delaware UM Endorsement, rendered the Policy ambiguous regarding decedent's inclusion in the class of insureds afforded maximum UM coverage. As a "finance manager" for an auto dealership, decedent had other employees under his supervision. According to Plaintiff, the terms "director" and "officer" were undefined in the Policy and therefore must be accorded their ordinary meaning as set forth in *Black's Law Dictionary*. The dictionary definitions include general references to persons who manage or direct others in the course of employment. Since decedent managed or directed others, Plaintiff argued that the Policy is ambiguous as to whether he is covered as an officer or director of the company.

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However, the *Stoms* Court held that, in the context of the Policy, the terms "director" and "officer" clearly appear in the corporate law context. It was undisputed that decedent was not an elected or appointed member of the board of directors of the named insured nor was decedent an officer with a title and duties established in the company's bylaws. The Policy was not ambiguous as to whether decedent qualified for coverage as a director or officer of the company. Consequently, the "reasonable expectation of the insured" doctrine did not apply to impose the disputed coverage obligation on Federated. Rather, the unambiguous policy language established that the Policy did not provide UM benefits for decedent and his child. The *Stoms* Court reaffirmed long-standing Delaware precedent that automobile policy terms subject to only one rational interpretation will be enforced without resort to extrinsic evidence as to whether it was reasonable for a claimant to expect they were covered under the circumstances presented.

White and Williams LLP is counsel for Federated Services Insurance Company in the *Stoms v. Federated Service Insurance Company* case. The filing deadline governing Motions for Reargument has passed and the Delaware Supreme Court's October 20, 2015 opinion is the final disposition of this matter.

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