RECENT COURT DECISIONS

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Uninsured Motorist—Limitations Of Actions

Kraly v. Vannewkirk, 635 N.E.2d 323 (Ohio 1994)

On June 4, 1988, Mark and Mary Lou Kraly were involved in an automobile accident with a vehicle driven by the defendant, Vannewkirk. The Kralys alleged they suffered bodily injuries as a result of the accident. On December 26, 1989, they filed suit against Vannewkirk. On January 2, 1990, the Vannewkirks' liability insurer (Cadillac Insurance Company) was declared insolvent. On March 5, 1990, the Kralys' attorney contacted the claims representative of State Farm and discussed the Kralys' claim for uninsured motorist coverage. On July 5, 1990, the State Farm claims representative sent a letter to the Kralys' attorney indicating that State Farm was denying uninsured motorist coverage because the Kralys had failed to commence an arbitration or suit against State Farm within two years from the date of the accident.

The issue before the Ohio Supreme Court was whether an action against State Farm was barred because the State Farm policy required arbitration or suit against State Farm to commence within two years following the accident. The accident occurred June 4, 1988, and the amended pleading adding State Farm as a defendant was not filed until August 3, 1990.

State Farm cited prior Ohio case law that had found that the basis for recovery under uninsured motorist coverage is founded in contract and not in tort. Prior case law had held that, absent a controlling statute to the contrary, the provisions of the contract may provide a time period for bringing an action that is less than that prescribed in the general statute of limitations, provided that the shorter period of limitations is reasonable.

The Ohio Supreme Court distinguished away these prior cases because in those instances the tortfeasor was uninsured on the date the injury was sustained. Thus, the court found that the cause of action for uninsured motorist coverage accrued on the same date that the injury occurred. The court wrote, "Where the liability insurer of the tortfeasor has been declared insolvent, a right of action of an insured injured by a tortfeasor against his insurer under the uninsured motorist provision of his automobile insurance contract accrues on the date that the insured receives notice of the insolvency." Thus, the court found that a contractual provision, which would purportedly extinguish a claim for uninsured motorist coverage by establishing a limitations period which expired before or shortly after the accrual of the right of action for such coverage, is per se unreasonable and violative of Ohio public policy. The case was reversed and remanded.

Rental Car Company Liability For An Unlicensed Driver

Drinkall v. Used Car Rentals, Inc., 32 F.3d 329 (8th Cir. 1994)

Bayles, a Nebraska resident, rented a car from a rental car office in Nebraska. Bayles had formerly lived in Iowa, but at the time of the accident he did not have a valid drivers license. Bayles' car was being repaired at a Hyundai dealership, which arranged for him to obtain a rental from Used Car Rentals. An employee of Used Car drove to the Hyundai dealership, picked up Bayles and a friend, and drove them to the rental car office. The employee then began filling out a rental agreement. The back of the agreement provided that the rental car could only be operated by licensed drivers over the age of 21 and that if the car was obtained by misrepresentation, all use of the vehicle was without the rental car company's permission.

The rental car employee then asked Bayles for his drivers license and Bayles indicated that it was in his car at the dealership. Bayles' friend was also asked for her drivers license and she indicated that it was at the dealership as well. The manager of the rental car agency was asked if they should return to the dealership to obtain the drivers licenses, but the manager told the employee to go ahead and complete the rental agreement.

In April, 1991, the plaintiff, Drinkall, an Iowa resident, was injured in an accident in Iowa involving a car driven by Bayles. Because Bayles and Used Car were residents of Nebraska and Drinkall was an Iowa resident, the case was heard in federal court under "diversity of citizenship" jurisdiction.

The case was tried in the Federal District Court for the Southern District of Iowa. The jury found the rental car company liable. The trial court had instructed the jury that in order to find Used Car liable it had to find that Used Car had consented to Bayles' use of the vehicle at the time of the accident. Iowa law provides that, where damage is done by any motor vehicle by reason of its negligence of the driver and the auto is driven with the consent of the owner, the owner of the motor vehicle shall be liable for such damage.

On appeal, defendant Used Car argued that the district court should not have used Iowa law but rather Nebraska law, which does not provide for owner liability. The appellate court found that the district court was correct in using Iowa law. In conflicts of law situations, the federal court is to use the conflicts of law that is prevailing in the state in which it sits. Iowa uses the significant relationships test, a theory that the court should use the law of the