



**JE
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Significant Alabama Insurance Law Decisions

2017 YEAR IN REVIEW



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Tortfeasor's Bankruptcy Does Not Prohibit Underinsured Motorist Claim

Easterling v. Progressive Specialty Ins. Co., 2017 Ala. LEXIS 93*; 2017 WL 4081097

On September 15, 2017, the Supreme Court of Alabama held that the tortfeasor's bankruptcy filing would not preclude an injured party's claim for underinsured motorist benefits. In order to recover such benefits, the UIM insured must demonstrate that he or she is legally entitled to recover against the tortfeasor. The Court determined that a bankruptcy filing, and ultimate discharge, does not prevent the UIM insured from establishing fault and proving the extent of damages. To the contrary, the bankruptcy proceeding merely limits the UIM insured's ability to collect damages from the tortfeasor once he or she has demonstrated the merits of the claims against that party.



Application of “Household Exclusion” Does Not Render Vehicle an Uninsured Auto

GEICO Indem. Co. v. Bell, 2017 Ala. Civ. App. LEXIS 57*; 2017 WL 942598

One of the named insureds was killed in a one-vehicle accident involving a vehicle that she owned jointly with the driver. The passenger’s estate filed suit against the driver and her uninsured motorist carrier, GEICO. Application of the “household exclusion,” which excludes bodily injury claims to an insured or any relative of the insured residing in his or her household, excluded liability coverage for the bodily injury to the passenger.

Given this development, the estate argued that the vehicle was converted to an “uninsured auto” for purposes of UM coverage. On the other hand, GEICO argued that the same vehicle could not be both an “insured auto” and an “uninsured auto” under the same policy. The Court of Civil Appeals of Alabama agreed relying upon prior precedent and, in doing so, it rejected the estate’s arguments that the policy was more restrictive than the UM statute or that the policy language was ambiguous, particularly since the construction urged by the estate would essentially eliminate the “household exclusion.”

Insured's Denial that He Electronically Signed UIM Rejection Form Created Question of Fact

Johnson v. First Acceptance Ins. Co., 2017 Ala. Civ. App. LEXIS 4*

The Court of Civil Appeals of Alabama reversed summary judgment in favor of First Acceptance Insurance Company in this matter which involved a question of whether or not the insured had rejected underinsured motorist insurance coverage. All parties agreed that the insured did not physically sign a paper insurance application or contract, or any form pertaining to underinsured motorist coverage, by using a pen. Instead, First Acceptance contended that the insured had signed the application for insurance electronically and that his signature declining underinsured motorist coverage was his electronic signature. Note that the Court did not address the question of whether the electronic signature was sufficient to waive underinsured motorist coverage pursuant to the Alabama Uniform Electronic Transactions Act as the Court found that the insured had failed to develop that argument. However, despite proof submitted by First Acceptance regarding the procedure utilized to obtain an electronic signature on the application, including the UIM rejection form, the Court held that the insured's testimony that he did not electronically sign the form created a factual dispute which precluded entry of summary judgment in favor of First Acceptance.



Liability Coverage Not Required for Driver Operating Vehicle With Implied Permission

Grimes v. Alfa Mut. Ins. Co., 2017 Ala. LEXIS 7*; 2017 WL 382294

In a lengthy opinion, the Supreme Court of Alabama held that the provisions of the Alabama Motor Vehicle Safety Responsibility Act and Alabama Mandatory Liability Insurance Act did not require the insurer to provide liability coverage to a non-insured, non-owner driver operating a vehicle with implied, not expressed, permission of the named insured. In addition, the Court determined that public policy did not override the freedom to contract and, therefore, there was no legal requirement to provide omnibus liability coverage.