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Recent Cases

tract, finding it premature to address the merits of plaintiffs' claims on a motion to dismiss. ♦

Nicole Rudman

Newly Acquired Autos Do Not Automatically Qualify as "Covered Autos" Under Preexisting Policies

In *Farm & City Ins. Co. v. Anderson*, 509 N.W.2d 487 (Iowa 1993), the Supreme Court of Iowa held that a newly acquired vehicle was covered under an owner's pre-existing policy only if the insured requested coverage for the vehicle within the 30-day period after the insured became the owner.

Farm and City's Policy Provision

Appellee Anderson had a pre-existing insurance policy with appellant Farm & City Insurance Company. The policy only applied to "covered autos," which it defined as any vehicle shown in the declaration, or any vehicle acquired during the policy period "only if...[the owner] ask[s] [Farm & City] to insure it within 30 days after...becom[ing] the owner."

Accident Involves Newly Acquired Auto

Anderson acquired a broken down 1982 pickup truck from his father in December 1991. After Anderson repaired the truck, his father transferred the certificate of title to Anderson on April 16, 1992. Anderson began driving the truck on April 23, but he never asked Farm & City to insure the truck. On May 16, Anderson collided with another car which had two occupants, both of whom claimed damages for injuries resulting from the accident.

Farm & City denied Anderson cov-

erage on the truck, claiming it was not a "covered auto" under the policy since Anderson never requested specific coverage for it. Farm & City filed an action seeking a declaratory judgment that it did not have a duty to defend Anderson or indemnify him for any damage claims by the occupants of the other car involved in the accident. Both Anderson and Farm & City moved for summary judgment.

The district court granted Anderson's motion for summary judgment, reasoning that the policy covered newly acquired vehicles for 30 days whether or not the insured requested coverage, and the accident happened within 30 days of the date Anderson obtained title. On appeal, Farm & City claimed that its policy required notice within 30 days in order for the truck to be covered, and thus the truck was not a "covered auto" under the policy. The Supreme Court of Iowa agreed, and reversed the district court's decision.

Court Rejects Automatic Coverage

The Iowa Supreme Court determined that there are two views on the issue of whether a policy automatically extends to newly acquired automobiles. The majority view holds that coverage automatically passes to a newly acquired vehicle for 30 days without notice and subsequently becomes void after the 30-day period if notice is not given. The rationale for the majority view is that a reasonable person reading the policy would conclude that a new car was covered for 30 days without notice. A further basis for this view is that "automatic coverage" would not be automatic if notice was required, thus a reasonable person would not expect to have to give notice.

The Supreme Court of Iowa, however, rejected the majority view, preferring the opinion that coverage must be requested within the 30-day period after the insured becomes the owner. The court noted that the majority view was based on the decisions of three courts, none of which were dealing

with the issue of notice during the automatic coverage period. Further, the court questioned the validity of the majority view, pointing out that many subsequent courts have accepted it without conducting an independent analysis of the issue.

The court was not persuaded by the reasoning used to justify the majority view. It did not agree that the policy provision at issue in this case was ambiguous. An insured's request for coverage is a condition that must be met in order for the newly acquired vehicle to be a "covered auto" under the policy. The court failed to see how a reasonable person could conclude that notice was not required for coverage under this policy.

Finally, the court rejected the argument that its interpretation destroyed the automatic nature of the coverage. Coverage for newly acquired vehicles is still automatic in the sense that the insurer is not at liberty to deny coverage on the basis that the vehicle is not listed in the policy. Moreover, the policy would still be effective retroactively to the date of ownership if the insured gave notice within 30 days, even if notice was given after an accident occurred. This provision assures coverage for an accident occurring during the notice period provided notice is given.

Insured Remains Liable

Thus, the Iowa Supreme Court held that Anderson's Farm & City insurance policy clearly required him to give notice in order for his newly acquired auto to be covered during the 30-day notice period. Since Anderson failed to give Farm & City notice that he owned the truck within 30 days after obtaining it, the truck did not qualify as a "covered auto" under his insurance policy. Additionally, the Farm & City policy did not cover liability arising from the use of an "uncovered auto" owned by the insured; therefore, Anderson was also not insured for any potential liability to the occupants of the other car involved in the accident. As a result,

the court found summary judgment in favor of Farm & City was appropriate. ❖

Jennifer C. Clarke

Announcements

Expansion of Family Leave Act Proposed

A task force studying the recently enacted Family and Medical Leave Act would like to see the law expanded to allow workers to take as much as six months off from work to care for sick relatives or newborn babies.

Under the current law, which took effect in August 1993, employees at companies with fifty or more employees can take up to twelve weeks of unpaid leave a year in order to care for a new baby or adopted child, a sick relative, or because of the employee's own illness or health condition. However, employers have the right to count time off taken under the law against paid vacation days or other personal leave accrued by the employee.

Assembled by the Carnegie Corp. of New York, the task force issued a report recently urging Congress to expand the coverage the law provides. For example, the task force concluded that the law should be expanded to cover all companies, not just those with fifty or more employees; that the leave should last four to six months; and that workers should receive at least half their pay while on leave. Workers must continue to receive wages during leave, the task force believes, in order to be able to afford to take the time off.

"Medical and family leave could greatly improve productivity," said Ray Marshall, a former Labor Secretary and a member of the task force.

Help Available for Caregivers for Elderly

An estimated seven million Americans are the primary caregivers for elderly friends, relatives, and neighbors. This caregiving generally involves helping out with household chores, personal care, and medical and financial matters. The time spent on caregiving often approximates that spent on a full-time job.

More than one-third of caregivers themselves are past age 65, and many younger caregivers also have jobs outside the home or children at home.

To help caregivers, the Older Women's League, an advocacy group that seeks to improve the lives of women at or past midlife, is offering two sources of information on local and national agencies that can assist with home care, transportation, and other needs.

One source is a fact sheet on national organizations that assist caregivers, such as the group Children of Aging Parents (215-945-6900) in Pennsylvania.

Caregivers can also call the toll-free Eldercare Hotline (800-677-1116) to learn the names, locations, and phone numbers of local agencies that can provide referrals for services such as adult day care, senior citizen lunch groups, home health care, transportation, and support groups.

How the IRS Traps Tax Cheaters

Former U.S. Treasury lawyer Martin Pollner, who used to supervise IRS enforcement agents, offers these tips on avoiding traps set by the IRS to gather evidence on those whom it suspects of cheating on their taxes:

- Do not talk to strangers about your finances. IRS agents some-

times pose as potential business buyers, doctors, or lawyers to get information.

- Watch your spouse if you are divorcing. Agents will often read court papers and talk to angry spouses in the middle of divorce actions.
- Never talk to the IRS without your lawyer present. In an effort to appear blameless, you may give information or relinquish rights that could help the IRS build a case against you.
- Of course, the best way to avoid trouble with the IRS is to not cheat on your taxes.

A Different Way to Buy a Used Car

Consumer affairs offices and Better Business Bureaus across the country report that of all purchases, buying a car is the one consumers complain about the most. While some car manufacturers, including General Motors and Nissan, have tried to improve car dealers' reputations recently by being nicer to their customers, a nationwide electronics chain has recently entered the market with some revolutionary ideas.

Circuit City Stores, Inc., is trying to make buying a used car as easy as buying a stereo or television by opening stores called CarMax. The new stores feature computer catalogues, making it easier for customers to find a car in their price range. Prices are fixed, so there is no haggling, and financing can be arranged in about 15 minutes. In all, the chain estimates a person could buy a used car in about an hour. "You don't have the high pressure," said one customer who recently bought two Ford trucks at CarMax. "You get a quality selection, and it's no hassle."

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