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Michigan Supreme Court Speaks: Insurance Contracts Not Entitled to Special Treatment

By Jennifer L. Smith

In a 4-3 decision, the Michigan Supreme Court held that insurance contracts are subject to the same contract construction principles that apply to any other species of contract, and that courts must construe and apply unambiguous contract provisions as written, absent a violation of the law or a valid defense. *Rory v. Continental Insurance Company*, 2005 Mich. LEXIS 1311 (July 28, 2005). The Court then upheld a limitations provision in an insurance contract that required a claim or suit for uninsured motorist coverage be brought within one year from the date of the accident.

Plaintiffs Shirley Rory and Ethel Woods maintained an automobile insurance policy with defendant Continental Insurance Company, also known as CNA Insurance Company ("Continental"), which included optional coverage for uninsured motorist benefits. On May 15, 1998, plaintiffs were injured in an automobile accident and it was unknown at the time whether the other party was insured. In September 1999, plaintiffs filed a first-party no-fault suit against Continental and a third-party suit for noneconomic damages against the driver of the other vehicle, Charlene Haynes. It was only after the suit was filed that it was discovered Haynes was uninsured. On March 14, 2000, plaintiffs submitted a claim for uninsured motorist benefits to Continental, which was denied because it was not filed within a year after the accident as required by the insurance policy.

In August 2000, plaintiffs filed a declaratory action, contesting Continental's denial of the uninsured motorist benefits. Continental filed a motion for summary disposition, relying on the limitation provision. The trial court denied Continental's motion, holding that the one-year limitations period contained in the contract was unreasonable. After a renewed motion for summary disposition, the trial court again denied Continental's motion, holding that the one-year limitation was an enforceable adhesion clause. The court found that because the limitation was not highlighted in the contract, was not bargained for by

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This decision is a victory for insurers. Courts must now treat insurance contracts as any other contract, and construe unambiguous terms as written, absent a violation of the law or a valid defense.

Illinois courts have held similarly over the years, finding that unambiguous insurance policy provisions must be interpreted according to their common and ordinary meaning. The reasonable expectations doctrine regarding insurance contracts does not exist in the State of Illinois. *El Rincon Supportive Services Organization, Inc. v. First Nonprofit Mutual Insurance Co.*, 346 Ill. App. 3d 96, 106; 803 N.E.2d 532, 540 (1st Dist., 2004). Similarly, Illinois does not apply the principles of "adhesion" contracts to insurance policies. *Insurance Company of North America v. Adkisson*, 121 Ill. App. 3d 224, 229; 459 N.E.2d 310, 313-14 (3rd Dist., 1984).

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the purchaser, and constituted a “significant reduction” in the time plaintiffs would otherwise have to file suit against Continental, to enforce such a provision would be “totally and patently unfair.” On appeal, the court agreed that the one-year period of limitations was unreasonable, and decided instead to impose a three-year period of limitations.

In holding the limitations provision valid, the Supreme Court stated that a fundamental tenet of American jurisprudence is that unambiguous contracts are not open to judicial construction and must be enforced as written. When a court abrogates contractual provisions based on its own independent assessment of what is “reasonable,” the parties’ freedom of contract is undermined. Unambiguous contractual provisions providing for a shortened period of limitations should therefore be enforced as written unless the provision would violate law or public policy. Since Michigan has no general policy or statute prohibiting private parties from contracting for shorter periods of limitations than those specified by statute, the provision does not violate law or public policy.

In addition, the Court noted that Michigan law requires that all basic insurance policy forms be filed with the Commissioner of the Office of Financial and Insurance Services (“Commissioner”), and he/she has the ability to determine whether or not to approve an insurance policy based upon reasonableness of the conditions and exceptions contained therein. In this respect, the Michigan Legislature has assigned the responsibility of evaluating the “reasonableness” of an insurance contract to the Commissioner, and for the judiciary to do so would be inappropriate.

Plaintiff’s argument that the insurance contract was one of “adhesion” also failed. After reviewing the long history of “adhesive” contracts in Michigan, the Supreme Court held that they are simply a type of contract and are to be enforced according to their plain terms, just like any other contract. A party may avoid enforcement of an “adhesive” contract only by establishing one of the traditional defenses, such as fraud, duress, unconscionability or waiver.

In their respective dissents, Justices Marilyn Kelly, Michael Cavanagh and Elizabeth Weaver in essence stated that insurance contracts are a special breed, and should be construed so as to protect the consumer. In order to protect the interests of both parties involved, it is legitimate for courts to review the reasonableness of contractual clauses that limit the period during which legal actions can be brought. By abrogating such right, the Court eliminated “over five decades’ worth of precedent that created specialized rules of interpretation and enforcement for insurance contracts.”

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