



By: Amy L. Coryer, Esq.
Lavery, Faherty, Young & Patterson, P.C.
225 Market Street, Suite 304
Harrisburg, PA 17108-1245
(717) 233-6633
Fax: (717) 233-7003
e-mail: acoryer@laverylaw.com
web: www.laverylaw.com

Topic: Affect of Decision to Reduce Liability Coverage on Previous UM/UIM Election

Blood v. Old Guard Insurance Company

934 A.2d 1218, 2007 Pa. LEXIS 2408 (2007)

Date of Decision: November 20, 2007

In Blood, when Michael and Sharon Blood, Jay Blood's parents, applied to Old Guard Insurance Company [hereinafter "Old Guard"] for automobile insurance in 1986, they requested \$500,000 in liability coverage. The Bloods elected to reduce their UM/UIM coverage to only \$35,000, albeit with the stacking option. There was no dispute that execution of the sign-down waivers was proper. The Bloods later decided to lower their liability coverage limits from \$500,000 to \$300,000. To this end, on June 16, 2000, the Blood executed a "coverage selection form," and indicated their desire for \$300,000 in liability coverage with an "X" in the space next to that amount. The only other marks on the form included a similar "X" indicating rejection of income loss benefits coverage, and the Bloods' signatures, which they dated. Although the form included choices to select UM/UIM coverage options, the Bloods indicated no selections.

On August 19, 2000, Jay Blood was injured in a motor vehicle accident and suffered serious injuries. The vehicle he occupied was driven by the owner, Jay Soltis, who was insured with State Farm. Jay Blood was paid the liability limit of the Soltis policy in the amount of \$25,000. Jay Blood then sought UIM coverage under the policy issued to his parents by Old Guard. Old Guard paid \$105,000 to Jay Blood, which, according to Old Guard's interpretation of the policy, represented the limit of stacked UIM coverage available (i.e., \$35,000 multiplied by the Bloods' three vehicles). Jay Blood then filed a declaratory judgment action in which he claimed that the limit of coverage was \$900,000 (i.e., \$300,000 multiplied by the Bloods' three vehicles). The basis of the declaratory judgment action was that the MVFRL required Old Guard to secure a new written sign-

down of UIM coverage following the Bloods' reduction of liability coverage and that the Bloods at no time signed down the \$300,000 limits of UM/UIM coverage that was available upon their reduction of liability coverage from \$500,000 to \$300,000. Old Guard moved for summary judgment at the close of pleadings and discovery, insisting that the Bloods' changes to the policy in 2000 were motivated by a desire to reduce premiums, and that the \$35,000 UM/UIM election made in 1986 remained in effect because the Bloods never sought to change their UM/UIM coverage following the issuance of the original policy.

The trial court found in favor of Old Guard. Jay Blood then appealed to the Superior Court, which, in a split *en banc* decision, reversed the trial court. The Supreme Court noted in its decision that it had never addressed the narrow issue involved in the case. As a general proposition, the Supreme Court agreed with the characterization of Sections 1731 and 1734 offered by the Third Circuit in Nationwide v. Resseguie, 980 F.2d 226, 230 (3d Cir. 1992). Tasked with interpreting the requirements for an effective Section 1734 reduction, the Third Circuit began its statutory construction analysis as follows:

Section 1731 is a simple statement whose plain meaning is apparent from its language. It mandates that an insurance company cannot issue a policy in the Commonwealth of Pennsylvania unless it provides UM/UIM coverage equal to the bodily injury liability coverage, except as provided in Section 1734 ...

We also agreed that Section 1734's language is plain and the Pennsylvania General Assembly's intention is clear. By its terms, a named insured may lower her statutorily provided UIM coverage limits by requesting in writing of her insurer to do so. The insurance company's obligation to *issue* a policy with UM/UIM coverage in an amount equal to the policy's bodily injury liability coverage is not relieved unless it has received such a written request [emphasis added].

Similarly, the Supreme Court found no ambiguity in these Sections and agreed with Jay Blood's insistence that the decision in the instant case did not call for an inquiry into the subjective intent of the Bloods and their desire to reduce their insurance costs. This matter was one resolved by application of the unambiguous language of Sections 1731 and 1734. The Supreme Court found it fatal that Jay Blood did not and could not direct the Court to a provision in the MVFRL that required an insurer to re-comply with the relevant sections of the MVFRL under facts such as these.

The operative facts of the case are that in 1986 the Bloods executed a written request for UM/UIM coverage of \$35,000 stacked, the policy was issued, and for the following fourteen years, Old Guard provided the desired coverage. There were no facts in the record to indicate the insureds ever desired to alter this election. Indeed, the MVFRL does not provide any support for Jay Blood's position that the Bloods' change of liability coverage had an effect on the otherwise valid Section 1734 reduction. Jay Blood would

have the Court import into its reading of the language of the relevant portions of the MVFRL his argument that the change was a delivery or issuance of a policy. The Supreme Court was without authority to write new requirements into the MVFRL where the statutory language is without ambiguity.

To summarize, an insured's decision to reduce the limits of his or her liability coverage does not affect a previous election of UM/UIM coverage at a level less than the liability limits established prior to the reduction.