INSURANCE - FLORIDA

White v. Ascendant Commercial Insurance, Inc.

District Court of Appeal of Florida, Third District - March 30, 2022 - So.3d - 2022 WL 945497 - 47 Fla. L. Weekly D774

Passenger, who was injured in automobile accident with school board's bus while riding in his employer's work vehicle, brought action against school board and his employer's liability insurer.

After passenger settled with school board for $175,000 and school board was dismissed with prejudice, passenger sought to recover uninsured motorist (UM) benefits from his employer's insurer. The Circuit Court granted insurer's motion for summary judgment. Passenger appealed.

The District Court of Appeal held that:

- School board was not self-insured government entity, for purposes of being classified as uninsured or underinsured;
- Passenger did not exhaust school board's liability insurance policy limits, and, thus, UM coverage under employer's insurance policy was not triggered; and
- Trial court could make determination that school board was not underinsured without jury first determining passenger's total damages.

School board was not self-insured government entity, for purposes of being classified as uninsured or underinsured under uninsured motorist (UM) statute, with regard to accident involving school board bus; school board regularly paid premiums to insurance company for liability coverage, school board's $200,000 retained limit did not render it a self-insurer, and insurance policy plainly indicated that school board was not self-insured.

Passenger, who was injured in automobile accident with school board's bus while riding in his employer's work vehicle, did not exhaust school board's liability insurance policy limits, and, thus, uninsured motorist (UM) coverage under employer's insurance policy was not triggered; school board's insurance policy provided limit of $200,000, passenger settled with school board for $175,000, and UM coverage under employer's policy was only triggered when tortfeasor's insurance coverage was exhausted through payment of judgments or settlements.

Trial court could make determination that school board was not underinsured, with regard to incident in which passenger was injured in automobile accident with school board's bus while riding in his employer's work vehicle, based on amount of passenger's settlement agreement with school board, without needing jury to first determine passenger's total damages, in passenger's action against his employer's insurer to recover uninsured motorist (UM) coverage; it was trial court's proper function to make the initial determination of law as to whether UM coverage was available.

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