

COA Opinion: Contractual limitations period on uninsured motorist coverage is valid

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On April 29, 2001, the Michigan Court of Appeals issued its published opinion in *Ulrich v. Farm Bureau Insurance*, No. 289467. In 2005, the Office of Financial and Insurance Services (“OFIS”), now the Office of Financial and Insurance Regulation, issued an order prohibiting insurance companies from issuing new forms that provide a contractual limitations period of less than three years for claims for uninsured motorist coverage (the “OFIS Order”). The plaintiff’s policy had a one-year contractual limitations period on uninsured motorist coverage. However, because the policy was issued before 2005, the Court upheld the limitation.

The plaintiff had a no-fault insurance policy issued by the defendant. The policy had been in effect since before 2005, most recently renewed on September 11, 2006. The plaintiff was in an accident on September 19, 2006. On July 16, 2007, the plaintiff sued the other drivers. The other drivers failed to respond, and the court entered default judgments against them. The plaintiff then attempted to amend her complaint to include a claim against the defendant-insurer for uninsured motorist coverage on January 8, 2007. The trial court allowed the amendment. The defendant moved for summary disposition, arguing that the plaintiff’s suit was not filed within the policy’s one-year limitations period and that even if the amendment related back to the original filing date the plaintiff had not complied with a policy provision requiring prompt notification of claims. The trial court denied summary disposition. The trial court held that the OFIS Order rendered the limitations period unenforceable and so the plaintiff’s claim was timely. The defendant appealed.

The Court of Appeals reversed. The Court held that because the plaintiff had failed to comply with the policy provision requiring prompt notification the plaintiff had no claim against the defendant-insurer. Nonetheless, the Court addressed the issue of whether the OFIS Order applied. The Court emphasized that the OFIS Order only prohibited new insurance forms from containing less-than-three-year limitations periods. Because the plaintiff’s policy was not new but only renewed, the OFIS Order did not apply.