

**IN THE COURT OF COMMON PLEAS of PHILADELPHIA COUNTY**

**FIRST JUDICIAL DISTRICT of PENNSYLVANIA**

**CIVIL TRIAL DIVISION**

STATE FARM MUTUAL	:	
AUTOMOBILE INSURANCE CO.	:	
Plaintiff	:	SEPTEMBER TERM, 1997
v.	:	
	:	
MARGARET MARY KREEB	:	
and GARY JAMES KREEB	:	
Defendants	:	No. 1801

**MEMORANDUM OPINION**

May 6, 1999

GOODHEART, J.

**INTRODUCTION**

The Plaintiff brought this action under the Declaratory Judgment Act, 42 P.S §7531, for a judicial determination of its obligation to provide uninsured and underinsured motorist coverage to the Defendant policyholders, in light of the language of the Motor Vehicle Financial Responsibility Law (the "**MVFR**L"; here, specifically 75 P.S. §1731), which requires uninsured ("**UI**") and underinsured ("**UIM**") coverage rejection forms to be printed "...on separate sheets [of paper] in prominent type and location." 75 P.S. §1731(c.1).

Here, the Plaintiff's UI and UIM rejection forms were printed on sheets of paper separate from each other (as the law clearly requires), and were properly signed by Mr. Kreeb, the first named insured.

The Defendants also rejected UI and UIM "stacked coverage", as permitted by 75 P.S §1738, but the "stacked coverage" waivers appeared on the same sheets of paper as the

corresponding UI and UIM rejection forms.

The question presented by this appeal is straightforward : Does the inclusion of "stacked coverage" waivers on the UI and UIM rejection forms violate the "separate sheets" language of §1731, and thereby invalidate the rejections ?

## **DISCUSSION**

Initially, I read the "separate sheets" language to mean only that the UI and UIM rejection forms could not appear together on a single sheet of paper. Since the UI and UIM rejection forms were separate from each other, I therefore granted the Plaintiff's Motion for Summary Judgment, ruling that the Plaintiff was not obliged to provide UI or UIM coverage<sup>1</sup> to the Defendants, by Order dated January 27, 1999<sup>2</sup>.

Shortly thereafter, the Defendants' counsel brought the very recent ruling of a Superior Court panel, in Winslow-Quattlebaum v. Maryland Casualty Company, et al, 723 A.2d 681 (12/14/1998) to my attention, by way of Petition for Reconsideration.

According to the Winslow-Quattlebaum panel, the "separate sheets" language of §1731 means that nothing else may appear on the same sheet of paper with a UI or UIM rejection form, not even a rejection of the corresponding "stacking coverage".

I therefore vacated the January 22, 1999 and January 27, 1999 Orders, by Order dated

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<sup>1</sup> I also found that even if as alleged, the Plaintiff's agent had printed the Defendant's name below his signature and had inserted the date of signing on the form, those actions would not invalidate the rejections.

<sup>2</sup> The Defendants' cross-motion for Summary Judgment had been assigned to my colleague, the Honorable Nitza Quiñones Alejandro; our decisions were coordinated, however, to preclude the possibility of inconsistent rulings, and she denied the Defendants' Motion by Order dated January 22, 1999.

February 15, 1999, in which I held that the rejection forms executed by the Defendants were void, that the Plaintiff was therefore required to provide UI and UIM coverages to the Defendants notwithstanding their execution of the purported rejection forms.

This being a Declaratory Judgment action, the Plaintiff then filed a timely Notice of Appeal<sup>3</sup>.

## **CONCLUSION**

I believe that the original intention of the Legislature in enacting §1731 was to ensure that motorists knew that they could reject either UI or UIM coverage without rejecting the other. My reading of the "separate sheets" language satisfies this intention.

I do not read the "separate sheets" language as narrowly as did the Superior Court panel, and do not find the Plaintiff's forms so defective that they should be invalidated in their entirety, thereby giving the Defendants the benefit of coverages for which they did not pay.

I would not have reversed myself absent binding -- if perhaps misguided -- precedent, but unless and until the Winslow-Quattlebaum decision is modified on further appeal, my decision must also be affirmed.

**BY THE COURT:**

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**Goodheart, J.**

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<sup>3</sup> Even so, I believe that this matter presents a "controlling question of law", and that an immediate appeal would likely facilitate its prompt resolution; I would, therefore, have amended my February 15, 1999 Order to make it a "final order", had the Declaratory Judgment Act not made it immediately appealable as of right.