

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NATIONWIDE MUTUAL : CIVIL ACTION
INSURANCE COMPANY :
 :
 :
 v. :
 :
 :
 PAMELA RILEY : NO. 99-5141

O'Neill, J.

May 30, 2000

MEMORANDUM

Defendant Pamela Riley and plaintiff Nationwide Mutual Insurance Company have cross-moved for summary judgment on the enforceability of the household exclusion clause in an automobile insurance policy issued to defendant's father. Defendant is claiming underinsured motorist benefits under her father's policy. Jurisdiction is based on diversity of citizenship.

The parties have stipulated to the following facts:

1. Plaintiff is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located in Columbus, Ohio, being duly authorized to conduct business in the Commonwealth of Pennsylvania at 414 Commerce Drive, Fort Washington, PA 19034.
2. Defendant is an individual resident and citizen of the Commonwealth of Pennsylvania residing at 147 Independence Drive, Morrisville, PA 19067.¹
3. On October 30, 1997, defendant was the owner and operator of a motor vehicle which was struck by another motor vehicle insured by TICO Insurance Company.

¹The parties have not stipulated to the amount in controversy but examination of the father's policy reveals that coverage is in excess of \$75,000.

4. In the October 30, 1997, motor vehicle accident defendant sustained personal injury.

5. Following the accident defendant made claim upon the owner/operator and TICO Insurance Company for damages in tort in connection with injuries sustained in the accident.

6. Following receipt of the claim for damages TICO tendered and paid its \$15,000 liability limit of coverage to defendant.

7. Following the tender and payment of the liability limits of coverage defendant made claim upon plaintiff for recovery of underinsured motorists benefits.

8. At all times material hereto there existed, in full force and effect, a personal automobile policy of insurance issued by plaintiff to defendant providing coverage in accordance with the requirements of the Pennsylvania Motor Vehicle Financial Responsibility law, 75 Pa.C.S.A. §1701, et seq.

9. The policy of insurance issued by plaintiff to defendant provided \$25,000/\$50,000 in underinsured motorist coverage.

10. Following receipt of the claim for underinsured motorist benefits under the policy of insurance issued to defendant plaintiff tendered the \$25,000 limit of underinsured motorist coverage to defendant.

11. At all times material hereto there also existed, in full force and effect, a personal automobile policy of insured issued by plaintiff to Arthur Riley the father of defendant (with whom she lived), providing coverage in accordance with the requirements of the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa.C.S.A. §1701, et seq.

12. Following receipt of the demand for underinsured motorist benefits under the policy of insurance issued to Arthur Riley, plaintiff denied the claim.

13. At the time of the incident forming the basis of the claims in the present case defendant was regularly living in the household of Arthur Riley.

The policy of insurance issued by plaintiff under which claim has been made provides:

We will pay compensatory damages, including derivative claims, which due by laws to you or relative from the owner or driver of an underinsured motorist vehicle because of bodily injury suffered by you or relative.

The policy further provides:

Relative means one who regularly lives in your household, related to you by blood, marriage or adoption (including a ward or foster child). A relative may live temporarily outside your household.

Finally, the policy provides:

This coverage does not apply to bodily injury while occupying a motor vehicle owned by you or a relative but not insured for underinsured motorist coverage under this policy; nor to bodily injury for being hit by any such motor vehicle.

Defendant does not dispute that the exclusionary clause set out above (the so-called "household exclusion") bars the coverage which otherwise would be available to her under her father's policy. Rather she asks that I hold that the exclusion is void, contrary to public policy and violative of the legislative interest of the Pennsylvania Motor Vehicle Financial Responsibility law.

The same issue (albeit concerning uninsured motorist coverage) has been thoroughly considered by my colleague Judge Ludwig in Troebs v. Nationwide Ins. Co., 1999 WL 79555 (E.D. Pa.) and State Farm Mut. Auto Ins. Co. V. Scheidler, 78 F.Supp. 2d 374 (E.D. Pa. 1999).I cannot improve upon and adopt his analysis and conclude that the household exclusion invoked by plaintiff is valid and enforceable. See also Ridley v. State Farm Met. Auto. ins.. Co., 745 A.2d 7 (Pa. Super. 1999), decided after Judge Ludwig filed his opinions.

I will grant plaintiff's motion and deny defendant's motion.

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PAMELA RILEY	:	NO. 99-5141

ORDER

AND NOW, this 30th day of May, 2000, it is hereby ORDERED:

1. Defendant's motion for summary judgment is DENIED.
2. Plaintiff's motion for summary judgment is GRANTED; and
3. Judgment is entered in favor of plaintiff Nationwide Mutual Insurance Company and against defendant Pameley Riley.

THOMAS N. O'NEILL, JR., J.