

State Farm Policy Language Upheld

- *Property in Care, Custody, and Control of Insured Considered*

In a case successfully litigated by this firm, the West Virginia Supreme Court found State Farm's auto policy language to be clear and unambiguous and not in contravention of the financial responsibility statute. In *Blake, et al. v. State Farm Mut. Auto. Ins. Co.*, (No. 34725, W.Va., filed Nov. 2, 2009), the Court upheld language in the policy which mirrors carve-outs in the financial responsibility statute concerning property in the care, custody, and control of the insured. State Farm's insured, Blake, borrowed his neighbor's trailer. The trailer was not insured. Moreover, the insured did not carry collision coverage on his truck. The insured then caused a single vehicle accident in which he damaged his truck and destroyed the attached trailer. The trailer owner subsequently sued Blake for damage to the trailer. Blake sought coverage and a defense from State Farm which was denied due to policy language excluding damage for property in the care, custody, and control of the insured.

State Farm contended, and the Supreme Court agreed, that when attached to the insured's truck, the trailer became an extension of the truck thus carrying the same - but no more than - the coverage applicable to the truck. Because there was no damage caused by the truck or attached trailer to another, no liability coverage was triggered.

The unanimous *per curiam* opinion included rather broad language which can be used in other coverage situations as well. The Court held there may be other situations when mandatory minimum limits do not apply.

The Court also rejected any argument that the policy language was ambiguous and specifically rejected an attempt to use extrinsic evidence to demonstrate an ambiguity. Plaintiff attempted to utilize a ruling in Montana wherein State Farm appeared to take a position inconsistent with the position taken in this case. The West Virginia Court refused plaintiff's attempt, holding: "It is only when the document has been found to be ambiguous that the determination of intent through extrinsic evidence becomes a question of fact."

Lastly, the Court again made a finding in footnote 6 as to when the doctrine of reasonable expectations is triggered, reverting to its original stance that it applies only after an ambiguity is found in the contract. Because this policy language was held to be clear and unambiguous, the doctrine did not apply to permit plaintiff another opportunity to create coverage under the policy.