IN THE SUPREME COURT OF FLORIDA

TALLAHASSEE, FLORIDA

RITA STROCHAK,

Appellant,

-vs-

CASE NO. 90,298

FEDERAL INSURANCE CO., etc., et al.,

Appellees.
_____/

REPLY BRIEF OF APPELLANT ON THE MERITS

Certified Question from the United States Circuit Court of Appeals, Eleventh Circuit

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PREFACE

This case is before the Court on a Certified Question from the United States Court of Appeals, Eleventh Circuit. The parties will be referred to by their proper names or as they appeared in the trial court. The following designations will be used:

(A) - Appellant's Appendix (filed with Initial Brief)

(R__, __, __) - Record Volume, Document Number, Page Number

(SA) - Appellant's Supplemental Appendix (filed with Reply Brief)

STATEMENT OF THE FACTS

It is unfortunate that factual disputes are still being created, even though the record is clear. One of the disputes created by Federal involves the contention that the 1984 Lincoln Continental, which was registered to Rita Strochak at the time of the accident, was listed on the 1985 application for excess liability insurance. A copy of that application is contained in the Index to Appellant's Appendix (A6) and unambiguously lists three vehicles: a 1985 Lincoln Sedan, a 1980 Lincoln Sedan, and a 1978 Porsche Sedan (A6). There is no 1984 Lincoln listed on that application. Federal's statement to the contrary is false.

On pages 10 and 11 of its brief, Federal cites a litany of references to the depositions of Rita Strochak and her son, Edmond Frankel, as supporting the contention that the 1984 Lincoln was one of the vehicles listed on the excess policy, even though all those deposition references directly demonstrate the contrary. All of the deposition pages

cited by Federal on this issue are included in the Appellant's Supplemental Appendix filed herewith (SA1-25), and none support the contention that the 1984 Lincoln was listed on the 1985 application. For example, on page 21 and 22 of Rita Strochak's deposition she testifies unequivocally that the 1985 Lincoln listed on the 1985 application was a Town Car, while her 1984 Lincoln was a Continental; and that they were definitely two different vehicles (SA6-7). When asked why the 1985 application does not list the 1984 Lincoln, Rita Strochak said she did not know but that her husband might have had it insured through his dealership (SA22).

Federal's reliance on Edmond Frankel's deposition is also baffling. On page 13 of his deposition, he testifies that the 1984 Lincoln was owned by Turnpike Ford (SA20).[1] On page 21 through 24, he testifies unequivocally that the 1980 Lincoln and 1985 Lincoln were both Town Cars titled in Mr. Strochak's name and neither of them were ever titled in his mother's name (SA22-25). He also testified that the 1984 Lincoln was purchased by his mother from Turnpike Ford and was then titled in Florida in her name (SA25). There is no contrary evidence. Thus, there is no evidence supporting Federal's contention that the 1984 Lincoln Continental was listed on the 1985 application for excess liability coverage.

Another baffling statement is on page 34 of Federal's brief, where it states, without record citation, that the 1984 Lincoln "was not registered in Florida until 1991." In the

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[1]/The 1985 application has a space for designating the "Type" of vehicle, owned ("O"), leased ("L"), or furnished for regular use ("F") (A6). All three vehicles listed on that application are designated "O," thereby indicating that those vehicles were owned by Donald Strochak, which the 1984 Lincoln never was (SA22-25).

trial court, the Plaintiff attached to her Motion for Summary Judgment certified records from the Florida Department of Motor Vehicles which show that the vehicle was registered in Florida in 1989. The Eleventh Circuit specifically stated "In March of 1989, she registered the Lincoln in Florida." For Federal to claim the contrary without any record cite is disingenuous.

Federal is also inaccurate in stating that the purpose of the masterpiece program was to, inter alia, "provide the same or broader coverage." (Appellee's Brief p.6). It cites page 49 of Patricia Harris' deposition wherein she states:

> We had two goals. One, to make the policy easier for a customer to read; and, second, in the aggregate provide broader coverage.

On page 7, Federal claims that Rita Strochak received a notice of uninsured motorist option "with her June 17, 1989 renewal." However, the record demonstrates, without dispute, that the June 17, 1989 renewal was sent to Donald Strochak (even though he had died in 1987) and was mailed to his automobile dealership in New Jersey (R3-80-Harris p.105-06). Rita Strochak was then residing in Florida (SA19) and there is no evidence it was ever provided to her. In fact, the producer for the policy, William Kaufman, testified unequivocally that Rita Strochak was never offered uninsured motorist coverage equal to the excess liability limits (R3-80-WK-42). Additionally, all automobiles were deleted from coverage, effective June 17, 1989; thus, there was no basis for any uninsured motorist coverage under the policy (Harris p.105). Moreover, the form relied on by Federal does not state what limits are available for uninsured

motorist excess coverage, but simply mentions that uninsured motorist coverage is an option (R3-80-PH, Ex. #C). Thus, it does not comply with Fla. Stat. §627.727(2).[2]

On pages 8 and 9, Federal claims that Rita Strochak never changed the designation of primary residence, which ignores the fact that there is no evidence that she was ever informed that such notification was requested or necessary. None of the insurance documents produced while she was the named insured ever stated that the first address listed was deemed to be the primary residence. Moreover, there is a document in the producer's records which indicate that his office was informed that Delray Beach was Rita Strochak's "home" (R3-80-WK, Ex. #2).

On page 9, Federal claims that the "Policy Terms" section of the excess policy is controlled by the named insured's mailing address, citing only Harris' deposition. Federal continues to ignore the undisputed fact that the duplicate policy issued to Rita Strochak in June, 1992, which utilized the Fort Lee, New Jersey mailing address, contains Florida "Policy Terms" (R3-80-PH, Ex.#E). That was the copy of that policy produced by Harris at her deposition (R3-80-PH, Ex#E). However, with its Motion for Summary Judgment, Federal certified that the 1992 "masterpiece" excess liability policy mailed to Rita in Florida (which also had Florida "Policy Terms") was the actual policy in effect (R2-78, Ex. #C).

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[2]/Federal also states, inaccurately, that Mrs. Strochak admitted she was aware of the purpose and nature of uninsured motorist coverage, citing page 128 of her deposition. A copy of pages 127 and 128 of her deposition are contained in the Supplemental Appendix, and demonstrate that she had no idea of the difference between liability and uninsured motorist coverage prior to November, 1992, and that thereafter she only realized "that there might be a difference" (SA16-17).

On page 10 of its brief, Federal falsely claims that the producer for the excess policy, William Kaufman, was not authorized or licensed to solicit or offer Florida uninsured motorist coverage citing to page 42 of his deposition. On that page of his deposition, after acknowledging that Rita Strochak was never offered uninsured motorist limits equal to the excess liability limits, Kaufman only claims that he was not permitted "to solicit business in the state of Florida" (R3-80-WK-42). However, it is undisputed that at all relevant times Kaufman had a non-resident insurance license to do business in Florida (R3-80-WK 8-9). Additionally, he was the producer on the Florida primary automobile liability policy issued to Rita Strochak in 1989 for the 1984 Lincoln, which provided $300,000 in uninsured motorist coverage (R3-80-WK, 8-9, 62).

Another blatantly false statement is that Rita Strochak only spent winters in Florida (Appellee's Brief p.13). Federal cites page 42 and 43 of Rita Strochak's deposition, in which she unequivocally testifies that the only time she spent in New Jersey was in the summers (R3-80-Strochak p.42-43). The testimony presented was that Rita Strochak spent the majority of her time in Florida[3] and only went to New Jersey two or three times a year for a couple of weeks, and sometimes during the summer (R3-80-RS42-43, EF 12, 46-47). She became a registered voter in Florida in 1988 (R3-80-RS17). The evidence is also uncontradicted that her son moved into the New Jersey co-op in 1988 and lived there, paying the maintenance fees until it was sold in 1993 (R3-80-EF 23). Her son

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[3]/Federal continually refers to the Delray Beach residence as a "vacation home", a description of it never used by any witness in this case. It is obviously a subtle attempt to support its argument with a self-serving and baseless label.

testified that when Rita Strochak came to New Jersey from Florida to visit she brought numerous suitcases (R3-80-EF 46-47) and that she did not spend much time in New Jersey until April of 1992 when she went to New Jersey to help him with a business they had purchased (R3-80-EF 42).

On page 13, Federal makes the false assertion that Rita Strochak never received insurance information at her Delray Beach residence and kept her records in New Jersey "at all times from Donald's death through the date of her accident." That is absolutely false. Federal's own records reveal that from 1989 through the middle of 1992, all the insurance information was sent to Rita Strochak in Delray Beach, Florida (R3-80-PH Ex.#D,E). The portion of Rita Strochak's deposition that Federal relies on is where she testified that she could not recall receiving information in Delray Beach (R3-80-RS25). This testimony must be considered in light of the fact that Rita Strochak suffered brain damage (as well as paraplegia) in the accident, which caused a memory deficit and required her to take numerous medications (R3-80-RS-37, R3-80-EF 22, SA23). Federal also falsely states that she explained keeping her insurance records in New Jersey because she was spending the majority of her time there, even though she could not remember and never said she spent the majority of her time in New Jersey (R3-80-RS35-36).

Federal cites to the evidence that Rita Strochak stayed with her daughter when she went down for her uncle's funeral, which ignores the undisputed testimony that the funeral was in North Miami, not Delray Beach (R3-80-RS-47). Additionally, Federal's comments regarding the bank accounts is overstated, since the testimony is undisputed

that Rita Strochak had two bank accounts in Florida and only one in New Jersey (R3-80-RS-60).

Federal refers to Rita Strochak changing her mailing address effective June 17, 1992, to New Jersey as a move, but ignores the producer's documentation which states, with respect to that change, "location to remain the same, mailing address different" and "locations remain the same" (R3-80-WK, Ex. #1 1, 13).

Federal claims that it is "undisputed" that by the time of the accident the 1984 Lincoln was principally garaged in New Jersey. That is false. The deposition references relied upon simply indicate that Rita Strochak had the vehicle in New Jersey when she was visiting there, not that it was principally garaged there. Moreover, all of the primary automobile liability policies issued by Federal for the 1984 Lincoln from 1989 through 1993, specifically state that the vehicle is principally garaged in Delray Beach, Florida (R3-80-PH, Ex. #D). Federal also claims that the vehicle registration lapsed in September 1992. However, Federal issued a primary policy in June of 1993, for the 1984 Lincoln again designating the vehicle as registered and principally garaged in Florida, and all the policy terms for the 1993 policy were designated to be Florida provisions (R3-80-PH, Ex. #D).

Federal also states that Rita Strochak never claimed a homestead exemption for the Delray Beach residence, citing p.42 of her deposition. That reference does not support that assertion. All she testified there was she was not familiar with the concept of homestead, and did not know if the documents relating to it were ever filed in Florida (R3-80-RS41-42).

CERTIFIED OUESTION PRESENTED

WHETHER AN EXCESS CARRIER HAS A DUTY TO MAKE AVAILABLE THE UNINSURED MOTORISTS COVERAGE REQUIRED BY FLORIDA STATUTE §627.727(2) TO AN INSURED UNDER AN EXISTING POLICY ON VEHICLES WHICH HAD NEVER BEEN REGISTERED OR PRINCIPALLY GARAGED IN FLORIDA WHENEVER ANY VEHICLE, COVERED OR SUBSEQUENTLY ADDED, FIRST BECOMES REGISTERED OR PRINCIPALLY GARAGED IN FLORIDA.

ARGUMENT

Florida Law Applies :

This choice of law issue was fully presented and argued to the Eleventh Circuit, and the Eleventh Circuit concluded that Florida law applied to the issue of the uninsured motorist coverage under the excess policy. While the Eleventh Circuit noted that this Court could revisit the issue, it is respectfully submitted that is not necessary, since the Eleventh Circuit's decision is fully consistent with Florida law and amply supported by the record,

To have any credibility on this issue, Federal must address the undisputed fact that the excess policy issued June 17, 1990, and those for the two subsequent years, all contained "Florida Signatures" executed by Federal's officers (R3-80-PH, Ex. #E, A48). Fla. Stat. $627.416 entitled "Execution of Policies" states, in pertinent part:

> (1) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer.

(2) A facsimile signature of any such executing individual may be used in lieu of an original signature.

Thus, it is indisputable that the excess policy issued for the years 1990 through 1992, were executed by Federal in Florida and under the lex loci contractus doctrine, Florida law should apply.[4]

Further, to have any credibility on this issue, Federal must explain why it included Florida "Policy Terms" in the excess policy issued in June of 1990, as it did in the excess policies for the two subsequent years (R3-80-PH, Ex. #E, A42-48). Federal's claim that those terms simply correspond to the mailing address is belied by its own documents, which reveal that the duplicate policy sent to Rita Strochak in New Jersey on June 17, 1992, had Florida "Policy Terms" (R3-80-PH, Ex. #E) . Federal also fails to mention anywhere in its brief the undisputed fact that it provided primary automobile liability coverage to Rita Strochak for the 1984 Lincoln from 1989 through 1992, and that it designated that policy exclusively a Florida policy (A10). That policy also acknowledged that the 1984 Lincoln Continental was registered and garaged in Florida (A8).

The choice of law issue in this case is controlled by STURIANO v. BROOKS, 523 So.2d 1126 (Fla. 1988), which held that the lex loci contractus doctrine applies and that the jurisdiction where the contract was executed should control. This rule is designed to provide stability in contractual arrangements, 523 So.2d at 1129. That concern is

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[4]/The fact that those policies had "Florida signatures" was addressed on pages 7 and 15 n.3 of the Initial Brief, including a citation to Fla. Stat. $627.416, yet Federal did not address those issues at all in its Answer Brief.

implemented here, since the excess policy at issue (and the excess policies for the two prior years), contained Florida "Policy Terms" and Florida "Signatures," thus memorializing the parties' expectations that Florida law applied.

As explained in the Statement of the Case and Facts, this is not a situation of a "snowbird" who travelled to Florida in the winter and never informed her insurance company of that migration. Here, the record is indisputable that Federal knew, based, inter alia, on the primary automobile policy, that the 1984 Lincoln was registered and principally garaged in Florida. Additionally, the record is clear, despite Federal's attempt to muddy the water that Rita Strochak spent the majority of her time in Florida.

Thus, this is not a situation where the policy was executed in another state and the only connection is that the accident occurred in Florida, see LUMBERMENS MUTUAL CASUALTY CO. v. AUGUST, 530 So.2d 293 (Fla. 1993) (policy issued in Massachusetts to Massachusetts residence governed by Massachusetts law even though accident occurred in Florida); BENNETT v. GRANITE STATE INSURANCE CO., 526 So.2d 187 (Fla. 3d DCA 1988) (Georgia policy issued to Georgia residents governed by Georgia law even though accident occurred in Florida); AETNA CASUALTY & SURETY CO. v. DIAMOND, 472 So.2d 1312 (Fla. 3d DCA 1985) (auto policy issued in Maryland to Maryland residents governed by Maryland law, even though insureds injured in Florida while riding in Florida vehicle operated by Florida resident); see also LoCICERO v. AMERICAN LIBERTY INSURANCE CO., 489 So.2d 8 1 (Fla. 2d DCA 1986), rev. den., 500 So.2d 543 (Fla. 1986) (Florida law governed policy issued in Florida to Florida residents, even though accident occurred in Georgia).

This is also not a situation in which an insured moved to Florida during the term of the policy, and then claimed that Florida law governed the policy, see STATE FARM MUTUAL AUTOMOBILE INS. CO. v. DEVELLA, 450 So.2d 1202 (Fla. 3d DCA 1984). Here, Federal's own documents indisputably demonstrate that it knew the 1984 Lincoln was registered and principally garaged in Florida for three years preceding the accident. Additionally, it issued the excess policy with Florida "Policy Terms" and Florida "Signatures" during that relevant time period. Therefore, it is disingenuous for Federal to claim that it is unfair to apply Florida law under these circumstances, when that was obviously the expectation of the parties as demonstrated by the contents of the contract.

Holding that Florida law applies is also consistent with the long line of cases in Florida, including AMARNICK v. AUTOMOBILE INSURANCE CO . OF HARTFORD, CONN . , 643 So. 2d 1130 (Fla. 3d DCA 1994), which hold that an insurance policy which specifically insures a vehicle registered or principally garaged in Florida, will be deemed to be issued for delivery in Florida, and be subject to Florida law, see GILLEN v. UNITED SERVICES AUTOMOBILE ASSOCIATION., 300 So.2d 3 (Fla. 1974); EAST COAST INSURANCE CO. v. COOPER, 415 So.2d 1323 (Fla. 3d DCA 1982); APERM OF FLORIDA, INC. v. TRANS-COASTAL MAINTENANCE CO., 505 So.2d 459 (Fla. 4th DCA 1987). Therefore, this Court need not revisit the Eleventh Circuit's determination that Florida law applies in this case.

Under Florida Law, Federal Was Required to Offer Rita Strochak Uninsured Motorist Coverage Equal to the Limits of the Masterpiece Policy:

Federal's argument on this issue sets up a regiment of strawman arguments and attacks them, all the while ignoring Plaintiff's actual argument and the undisputed facts which support it. To eliminate the necessity of wading through the strawman arguments, the Plaintiff would note that she has never argued that primary and excess uninsured motorist coverage cases are interchangeable, that excess uninsured motorist coverage has to be offered whenever a new vehicle is added to an excess policy, that a change in the named insured from a deceased husband to a wife requires a new offer of uninsured motorist coverage, that the mere registration of a vehicle creates a new policy, nor that a new application is required every year for an excess policy.

Plaintiff's position is that, at the time Federal issued the June 17, 1990, excess policy, it had an obligation, pursuant to Fla. Stat. §627.727(2), to offer excess uninsured motorist coverage equal to the liability limits to Rita Strochak for the 1984 Lincoln.[5] This is based on the undisputed facts that that was the first excess policy that provided coverage for a specifically identified vehicle registered and principally garaged in Florida, and it was the first excess policy executed and delivered to the insured in Florida. Federal can claim no inequity from the imposition of this duty, because it incorporated

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[5]/Federal claims that the registration for the 1984 Lincoln lapsed after the 1992 excess policy was issued, but prior to the accident. Even assuming arguendo_ that is true, it has no bearing on Federal's statutory obligations on June 17, 1990, nor on June 17, 1992, when the excess policy in force at the time of the accident was issued. Furthermore, the record shows that Federal issued a primary automobile policy to Rita Strochak in 1993, which was a Florida policy and stated that the 1984 Lincoln was still principally garaged in Florida (R3-80-PH, Ex. #D).

Florida "Policy Terms" and Florida "Signatures" in that policy. Additionally, it is undisputed that Federal issued the primary automobile liability policy to Rita Strochak for the 1984 Lincoln, which was designated a Florida policy and explicitly noted that that vehicle was principally garaged in Delray Beach (A8-19). With that primary policy, Federal offered Rita Strochak uninsured motorist coverage in an amount equal to those liability limits, and she accepted and paid for that maximum uninsured motorist coverage.

Federal claims that the terms of Fla. Stat. §627.727(2) do not apply to any excess policy other than the 1985 policy, arguing that that was the only time an application was utilized. However, as Federal's own witness testified, prior to the use of the "Masterpiece" policies, Federal utilized applications whenever they added additional coverages to an excess policy (R3-80-PH37). Only after the "Masterpiece" policies were issued, Federal decided to use "worksheets" instead of applications. Obviously, an insurance company cannot dictate the application of the statute to its policies by changing its own internal procedures, see JERSEY PALM-GROSS, INC . v. PAPER, 658 So.2d 531 (Fla. 1995) (lender cannot insulate itself from liability under usury statute by inserting usury savings clause in contract); SHRINERS HOSPITAL FOR CRIPPLED CHILDREN v. ZRILLIC, 563 So.2d 64 (Fla. 1990) (testator's intent cannot control construction of statute intended to control legacies); JACK STILSON & CO, v. CALOOSA BAYVIEW CORPORATION, 278 So.2d 282 (Fla. 1973) (contractor not allowed to circumvent statutory time limitation for filing mechanic's lien claim by filing an untimely "amended" claim).

Under its own procedures prior to the "Masterpiece" system, Federal would have used an application in 1990 when the 1984 Lincoln was added to the excess policy. Fla. Stat. §627.727(2) requires that an offer of uninsured motorist coverage be made with the application for any policy that does not provide primary liability insurance, but "includes coverage for liabilities arising from the maintenance, operation, or use of a specifically insured motor vehicle," see TRAVELER'S INSURANCE CO. v. QUIRK, 583 So.2d 1026 (Fla. 1991). The 1990 excess policy falls within that definition. The legislature reasonably anticipated that the creation of a new coverage under an excess policy, such as occurred here in 1990, would involve the use of an application. An application is the means by which an insurer is provided information to underwrite the risk and to issue new coverage, see Fla. Stat. §627.409(1). Application enables an insurer[6] to rescind the policy if material misstatements are contained therein, Fla. Stat. $627.409. Obviously in obtaining new coverage, the insurance company is required to know certain information regarding the vehicle, its use, location, drivers, etc. In this case, the addition of new automobile coverage was also the first time that the excess policy contained Florida "Policy Terms" and "Signatures." Thus, the duty arose at that time under Fla. Stat. §627.727(2) to offer uninsured motorist coverage in an amount equal to the liability limits, see TRAVELER'S INSURANCE CO. v. QUIRK, supra.

Federal relies on GOVERNMENT EMPLOYEES INSURANCE CO. v. STAFSTROM, 668 So.2d 631 (Fla. 5th DCA 1996), which is distinguishable. There,

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[6]/Federal has not addressed Fla. Stat. $627.409 in its brief despite the discussion of that statute in the Initial Brief (Appellant's Brief p.23).

the insured had a Florida primary automobile liability policy, which covered two Florida vehicles, and subsequently he added a third Florida vehicle to the policy. After he was injured in an accident, he claimed he was entitled to the maximum uninsured motorist coverage available because he had not specifically rejected such coverage. The plaintiff there based his argument on the premise that the addition of a new vehicle constituted a new contract. The Fifth District held that the addition of the vehicle was insufficient to require an additional offer of uninsured motorist coverage under Fla. Stat. $627.727.

STAFSTROM does not apply here, because the addition of the 1984 Lincoln to the excess policy in 1990 was not simply the addition of a vehicle. From June 17, 1989, until the 1984 Lincoln was added on June 17, 1990, there were no vehicles specifically identified as being covered under the excess policy. In addition to that gap, the policy issued on June 17, 1990, was the first policy that specifically covered a vehicle registered and principally garaged in Florida. That was also the first excess policy to be executed in Florida and to contain Florida "Policy Terms." Therefore, STAFSTROM is factually distinguishable and does not apply here.

Federal relies on the offer of uninsured motorist coverage provided in the 1985 application executed by Donald Strochak, and claims that it satisfied its duty under Florida law at that time. However, the 1985 excess policy was not executed in Florida, did not contain any Florida "Policy Terms," and did not provide coverage for any vehicle registered or principally garaged in Florida. The necessary corollary to Federal's argument is that it could now be required to provide excess uninsured motorist coverage if it had not offered excess uninsured motorist coverage to Donald Strochak in 1985.

Apparently recognizing that corollary, Federal makes the bizarre claim that because excess coverage is national (and maybe even worldwide), the 1985 excess policy that was governed by Fla. Stat. $627.727 in 1985. However, primary automobile policies provide coverage throughout the United States,[7] and that does not mean that they are subject to the law of every state. Florida courts have consistently held that where a policy is issued in another state to residents of that state for vehicles registered in that state, Florida law does not apply to it, see also, ALLSTATE INSURANCE CO. v. CLENDENING, 289 So.2d 704 (Fla. 1974) (Tennessee law, not Florida law, applied to automobile policy executed by Tennessee resident in Tennessee); H. S. EQUITIES, INC. v. HARTFORD ACCIDENT & INDEMNITY CO., 334 So.2d 573 (Fla. 1976) (New York law, not Florida law, applies to contract executed in New York); LUMBERMENS MUTUAL CASUALTY CO. v. AUGUST, supra; BENNETT v. GRANITE STATE INSURANCE CO., supra; AETNA CASUALTY & SURETY CO. v. DIAMOND, supra. , Stat. $627.727 could not have imposed a duty on Federal to offer excess uninsured motorist coverage with the excess policy issued to Donald Strochak in 1985. Federal's argument that the policy in 1985 was subject to Florida law must be considered in light of its other argument that the 1992 policy, even though it contained Florida "Policy Terms, " Florida " Signatures, " and specifically insured a vehicle registered and principally garaged in Florida, is not covered by Florida law.

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[7]/In fact, in Florida, insurers are not permitted to limit the territorial application of uninsured motorist coverage to less than the United States and Canada, FISCHER v. STATE FARM MUTUAL AUTOMOBILE INSURANCE CO., 495 So.2d 909,911 (Fla. 3d DCA 1986).

The Plaintiff's argument in this case is the only one that reconciles the public policy of this State, as expressed in Fla. Stat, $627.727, with choice of law principles, and the practical aspects of obtaining insurance coverage. It is not logical to claim, as Federal does, that Florida law applied to the 1985 policy, which was issued in New Jersey to New Jersey residents, and did not insure any vehicle registered or principally garaged in Florida. It also is not logical to argue, as Federal does, that Florida law does not apply to the excess policies issued from 1990 through 1992, which were issued to a Florida resident, contained Florida "Policy Terms, " Florida "Signatures, " and specifically covered a vehicle registered and principally garaged in Florida.

The duty to comply with Fla. Stat. §627.727(2) arose when Federal issued the 1990 excess policy, and it is not inequitable to impose that duty when Federal had knowledge of the connexity with Florida, as reflected in the Florida "Policy Terms" and the "Signatures" it incorporated in that policy. For these reasons, this Court should answer the Certified Question in the affirmative to the extent that the duty to offer uninsured motorist coverage in an amount equal to the liability limits was required to have been made in this case.

CONCLUSION

For the reasons stated above, the Certified Question of the Eleventh Circuit should be answered in the affirmative.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true copy of the foregoing was furnished to GEORGE A. VAKA, ESQ., P.O. Box 1438, Tampa, FL 33601; GERALYN M. PASSARO, ESQ., 600 S. Andrews Ave., Ft. Lauderdale, FL 33301, by mail, this 5th day of August, 1997,

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