SUPERIOR COURT OF PENNSYLVANIA

Erie Insurance Exchange v. Richard Russo

Erie Insurance Exchange v. Russo, 2025 Pa. Super. 154 · No. 1138 MDA 2024 · Decided July 22, 2025

SUMMARY

The Pennsylvania Superior Court affirmed a declaratory judgment denying Richard Russo underinsured motorist coverage under his personal Erie policy for an accident involving an employer-provided vehicle. The court held that Russo was not an insured under the employer’s policy for purposes of stacking under Section 1738 of the Motor Vehicle Financial Responsibility Law because he was neither a named insured nor otherwise a qualifying class-one insured. Accordingly, Russo could not stack his personal UIM coverage with the benefits received under the employer’s policy, and the court affirmed on different grounds.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Stevens, P.J.E.; Murray, J.; King, J.
JURISDICTION	Pennsylvania Superior Court
DECIDED	July 22, 2025
DOCKET	1138 MDA 2024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Erie sought declaratory judgment concerning the availability of underinsured motorist coverage under Russo's personal automobile policy. After the trial court denied Russo's preliminary objections and granted Erie's motion for judgment on the pleadings, Russo appealed.
STANDARD OF REVIEW	Plenary review applies to a judgment on the pleadings. The appellate court determines whether the trial court committed clear legal error and accepts as true all well-pleaded facts of the nonmoving party, considering only admissions and properly attached pleadings and exhibits.
PRECEDENTIAL VALUE	published precedential Pennsylvania Superior Court opinion
PARTIES	Richard Russo v. Erie Insurance Exchange

TOPICS

uninsured motorist · insurance coverage · statutory interpretation · motion for judgment on the pleadings · appellate procedure

PRACTICE AREAS

insurance · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether Russo was an insured under his employer's Donegal policy for purposes of inter-policy stacking under 75 Pa.C.S. § 1738.
2. Whether an employee who receives UIM benefits as an occupant of an employer-provided vehicle may stack UIM coverage purchased under the employee's personal policy.
3. Whether the regular-use exclusion in Russo's Erie policy unlawfully waived or defeated a right to stack under the Motor Vehicle Financial Responsibility Law.
4. Whether the trial court erred in relying on Erie Insurance Exchange v. Mione and Major v. Cruz.

HOLDINGS

1. Russo was not an insured under the Donegal policy for purposes of Section 1738 because he was not identified as an insured under the policy, did not fall within the statutory definition of insured in Section 1702, and did not qualify as a class-one insured under Pennsylvania decisional law.
2. Receiving UIM coverage as an occupant of a first-priority vehicle does not make the occupant an insured under that vehicle's policy or entitle the occupant to stack personal-policy UIM coverage under Section 1738.
3. The challenge to the regular-use exclusion was moot because Russo had no Section 1738 right to stack his Erie UIM coverage with the Donegal benefits.

KEY QUOTATIONS

> *“Simply receiving UIM coverage for injuries sustained as an occupant in a first priority vehicle does not make one “an insured” under the vehicle’s policy who is then entitled to stack one’s personal auto policy UIM coverage.”* (at 11)

FACTUAL BACKGROUND

On November 19, 2018, Richard Russo was injured in a motor-vehicle accident while operating an employer-supplied vehicle in the course of his employment. He received the maximum $35,000 in UIM benefits under his employer's Donegal policy and then sought additional UIM benefits under his personal Erie policy, which covered multiple personal vehicles with stacked UIM coverage. The employer's policy named neither Russo nor a class of employees as insureds, and Erie’s policy excluded bodily injury sustained while using a regularly used, nonowned vehicle not insured for UIM coverage under that policy.

PROCEDURAL HISTORY

Erie filed a declaratory-judgment complaint after denying Russo's claim for UIM benefits under his personal policy based on a regular-use exclusion. The parties stayed the matter pending the Pennsylvania Supreme Court's decision in Rush v. Erie Insurance Exchange. After Rush upheld the regular-use exclusion, the trial court denied Russo's preliminary objections, granted Erie judgment on the pleadings, and declared that no UIM coverage was available under Russo's personal policy. The Superior Court affirmed, although on different grounds.

DISPOSITION

affirmed

CASES CITED

- Rush v. Erie Insurance Exchange, 265 A.3d 794 (Pa. Super. 2021)
- Rush v. Erie Insurance Exchange, 308 A.3d 780 (Pa. 2024)
- Erie Insurance Exchange v. Mione, 289 A.3d 524 (Pa. 2023)
- Major v. Cruz, 310 A.3d 809 (Pa. Super. 2024)
- Generette v. Donegal Mutual Insurance Co., 957 A.2d 1180 (Pa. 2008)
- Craley v. State Farm Fire & Casualty Co., 895 A.2d 530 (Pa. 2006)
- In re Insurance Stacking Litigation, 754 A.2d 702 (Pa. Super. 2000)
- Baclit v. Sloan, 323 A.3d 1 (Pa. Super. 2024)
- Utica Mutual Insurance Co. v. Contrisciane, 473 A.2d 1005 (Pa. 1984)
- Estate of O'Connell ex rel. O'Connell v. Progressive Insurance Co., 79 A.3d 1134 (Pa. Super. 2013)
- Berardi v. USAA General Indemnity Company, 2023 WL 4418219 (3d Cir. July 10, 2023)
- Chris Eldredge Containers, LLC v. Crum & Foster Specialty Insurance Co., 2025 Pa. Super. 92 (Pa. Super. Apr. 24, 2025)
- Cornwall Mountain Investments, L.P. v. Thomas E. Proctor Heirs Trust, 158 A.3d 148, 153 (Pa. Super. 2017)