

United States Court of Appeals,

Eleventh Circuit.

No. 95-4748.

Rita STROCHAK, Plaintiff-Appellant,

v.

FEDERAL INSURANCE COMPANY, a New Jersey Corporation, Defendant-Appellee,

Keevily, Spero-Whitelaw, Inc., Defendant.

April 13, 1998.

Appeal from the United States District Court for the Southern District of Florida. (No. 93-8500-CIV-KLR), Kenneth L. Ryskamp, Judge.

Before BARKETT, Circuit Judge, KRAVITCH, Senior Circuit Judge, and HARRIS\*, Senior District Judge.

BARKETT, Circuit Judge:

Appellant Rita Stochak appeals the district court's order granting summary judgment on her contract claim for excess uninsured motorist coverage based on Florida Statute § 627.727(2) (1996) in favor of Appellee Federal Insurance Company (FIC). Stochak alleged that FIC's failure to offer uninsured motorist coverage for her 1984 Lincoln violated § 627.727(2). Although the 1984 Lincoln was not registered or principally garaged in Florida in 1985 when her husband, Donald Stochak, took out the insurance policy with FIC, Stochak argued that when she registered and principally garaged the 1984 Lincoln in Florida, FIC had a duty to offer her uninsured motorist coverage under § 627.727(2). In our initial decision in this case, we concluded that this dispositive question of Florida law was not dictated by the clear and controlling precedent of the Florida Supreme Court.

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\*Honorable Stanley S. Harris, Senior U.S. District Judge for the District of Columbia, sitting by designation.

Accordingly, we certified the following question to the Florida Supreme Court:

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.

*Strochak v. Federal Ins. Co.*, 109 F.3d 717, 720-21 (11th Cir.1997).

The Florida Supreme Court answered the certified question in the affirmative. *Strochak v. Federal Ins. Co.*, --- So.2d ----, No. 90,298, (Fla. March. 19, 1998). Based on this opinion, we REVERSE the district court's grant of summary judgment to FIC and REMAND this case to the district court for proceedings consistent with the opinion of the Florida Supreme Court.