SUPERIOR COURT UPHOLDS TRANSFER OF VENUE IN UIM CASE

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The Superior Court has ruled in Sehl v. Neff and State Farm Mutual Insurance Company, 2011 Pa. Super. 153 that a defendant driver and a defendant UIM carrier are not subject to joint and several liability for purposes of establishing venue. The Superior Court upheld the transfer of venue out of Philadelphia County to neighboring Montgomery County where the defendant driver could only be served in Montgomery County. The case was transferred despite the factual conclusion that the plaintiff's UIM carrier, State Farm, regularly conducts business in Philadelphia and was therefore subject to venue in Philadelphia. This is an important case for any defendant looking to challenge venue in a UIM case.

Typically, the rule of thumb in personal injury cases with multiple defendants is that venue is proper in any county which is proper as to any one of the defendants. For example, if venue is proper as to only one defendant in Philadelphia, then the case against all defendants is proper in Philadelphia. This principal is set forth at Pennsylvania Rule of Civil Procedure 1006(c)(1) stating that the action: "may be brought against all defendants in any county in which the venue may be made against any one of the defendants . . . ." However, this Rule only applies where the action is to "enforce a joint or joint and several liability" against those various defendants. Since the Koken decision, Plaintiffs are now typically filing the negligence case against the driver and the contractual claim against the UIM carrier in the same case based on the same complaint. In Sehl, the defendant driver argued that, under those circumstances, the Plaintiff is not seeking joint or joint and several liability against the defendants where one cause of action was in negligence and the other was in contract.

The Sehl Court noted that the Plaintiff did not plead joint or joint and several liability in the complaint; each count in the complaint was against only one of the defendants; the defendant driver would not be liable for any amount owed by State Farm nor would State Farm be liable for any amount owed by the defendant driver. The Superior Court agreed with the trial court that the claims were separate and distinct and therefore there was no claim for joint and several liability. Accordingly, Pennsylvania Rule of Civil Procedure 1006(c)(1) did not apply and venue was not proper in Philadelphia as to the defendant driver. The Superior Court sustained preliminary objections transferring the matter out of Philadelphia to Montgomery County where the defendant drive was amenable to service.

Stephen Bruderle defends insured and self insured entities and corporations in all manner of casualty claims, focusing on Philadelphia and the outlying counties. Mr. Bruderle has defended individuals, construction and manufacturing companies, design professionals, medical professionals, accountants, physical therapists, product manufacturers and designers, general contractors, construction managers, property owners, property management companies and a wide array of contractors and subcontractors.