

# WASHINGTON CASE UPDATE

## Voiding Coverage for Fraud Prohibited by Public Policy

**From the desk of Joshua Hayward: Does one insured's fraud void coverage for all insureds under an automobile insurance policy? Read on to understand the public policy implications at play, as addressed by Washington's Court of Appeals in this unpublished opinion.**

**Claims Pointer: According to the Division One Washington Court of Appeals, it is against public policy to void automobile insurance coverage for all insureds when only one insured engages in fraud.**

case in point...

*Angarita v. Allstate Indem. Co.*, 70201-7-I, 2014 WL 3360175 (Wash. Ct. App. July 7, 2014) (Unpublished)

Perla Villanueva (Villanueva) and Mirtha Angarita (Angarita) were injured when the car Villanueva was driving was rear-ended by Jeffery Butler (Butler). After the incident, the drivers proceeded to a safe location off of the highway and exchanged contact information. Both Villanueva and Angarita filed personal injury protection (PIP) claims under Villanueva's insurance policy, however, when asked about the collision, Villanueva stated that Butler had driven off after the accident without providing his identity and contact information. In contrast, Angarita told the insurance company (Allstate) that Villanueva had obtained Butler's information. Villanueva's Allstate policy contained a "void-for-fraud" clause that provided that Allstate "may not provide coverage for any insured who has made fraudulent statements or engages in fraudulent conduct in connection with any accident or loss for which coverage is sought." In light of the "void-for-fraud" policy provision, Allstate denied coverage for both Villanueva's and Angarita's claims. Angarita filed suit against Allstate.

At trial, both Allstate and Angarita filed motions for partial summary judgment on the issue of coverage. The court granted Angarita's motion and ruled that Villanueva's fraud voided coverage as to Villanueva only, not to Angarita or other third parties. Allstate appealed, arguing that fraud by one insured voided the policy as to all insureds.

In reviewing the trial court's decision, the Washington Court of Appeals addressed a prior court of appeals opinion, *Kim v. Allstate*, upon which Allstate placed significant reliance. Contrary to Allstate's contention, the court determined that *Kim* did not hold that fraud by one insured would void a policy as to all insureds. Furthermore, the Division One court pointed out that *Kim* did not discuss the disparate treatment of different types of insurance

policies by Washington law. Important public policy considerations apply to automobile insurance that do not apply with equal force to other forms of insurance. In Washington, automobile insurance is mandatory. The requirement exists to protect the public from the dangers of negligent and reckless drivers. Acknowledging the paramount importance of this public policy, the Washington Supreme Court, in *Mendoza v. Rivera-Chavez*, opined that insurers may not write their provision so to undermine it. Indeed, the Division One Washington Court of Appeals reasoned that, to void coverage under an automobile policy, the insurer must prove both fraud by the insured and actual prejudice resulting from the fraud.

In the instant case, Allstate did not prove that Villanueva's fraud prejudiced Allstate in processing Angarita's PIP claim. As PIP benefits are not fault based, Butler's identity was immaterial. Rather, the information necessary to process Angarita's PIP claim was the nature and extent of her injuries. Angarita testified truthfully about the accident and the extent of her injuries. The facts presented did not support Allstate's position that Villanueva's fraud voided coverage for Angarita's claim.

NOTE: This opinion has not been published. It is provided to demonstrate how the court approaches the issues involved in the case. It cannot be cited as authority to a court of law.



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