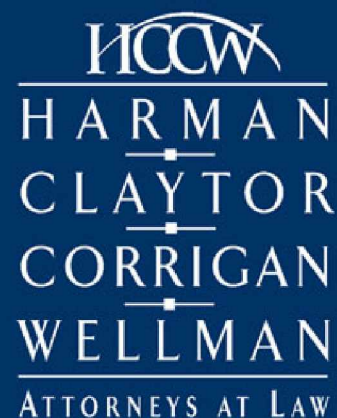


LEGAL ALERT



Officer's Apprehension of Suspect After Chase Did Not Involve "Use" of Either's Vehicle

Harman, Claytor, Corrigan and Wellman is pleased to announce that, on April 15, 2010, the Virginia Supreme Court rendered a decision in favor of the firm's client, the Virginia Municipal Liability Pool, in the case of *Simpson v. Virginia Mun. Liab. Pool*, ___ Va. ___, ___ S.E.2d ___, 2010 WL 1491414 (Va. 2010). This case posed the interesting question of whether a police officer and a suspect were "using" their motor vehicles for purposes of automobile insurance coverage. After a high-speed chase, the officer had stepped approximately 10 feet away from his vehicle to confront the suspect, who had also emerged from his vehicle. The officer had left the flashing lights and siren on when he had gotten out of his police cruiser. A struggle ensued and the officer was injured while attempting to handcuff the suspect.

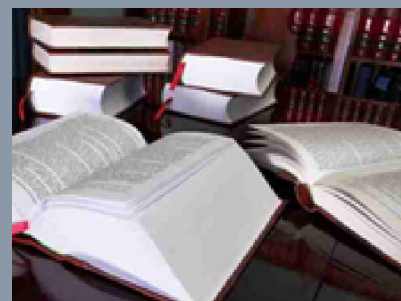
The Virginia Municipal Liability Pool provided uninsured motorist coverage on the police cruiser. If the officer was "using" the cruiser at the time of his injury and the suspect was "using" his vehicle, the Pool would be required to provide UM benefits.

The Court looked to "the natural and ordinary purpose of automobile insurance, objectively and reasonably within the contemplation of the parties to the insurance contract at the time of its inception." The Court noted that cases involving "use" or "occupancy" for purposes of motor vehicle coverage "present to the courts such an infinite variety of factual patterns that it is impossible to formulate bright-line rules of universal applications or a list of factors dispositive of the issue in every case." Based on earlier authority, however, the Court stated that the "critical inquiry" is whether there was a causal relationship between the incident and the employment of the insured vehicle "as a vehicle."

The Court concluded that the scramble among the men on the ground was not an event reasonably and objectively such as to have been within the contemplation of the parties to the contract of automobile insurance. The Court noted that, although the officer's flashing lights and siren were still on when he left the cruiser, there was no evidence that they were used or relied upon in any way to accomplish the officer's purpose at the time he was injured. Because the officer's injuries did not arise out of the use of either of the vehicles, the Court affirmed the trial court's judgment for the Virginia Municipal Liability Pool.

There is little reason to believe that the *Simpson* case will be the Court's final word on the meaning of "use" in the context of motor vehicle insurance. It is significant, however, in that it reinforces the view that a vehicle must be being used "as a vehicle" for coverage to apply. It also provides guidance to the lower courts with respect to the need to look to the natural and ordinary purpose of automobile insurance, objectively and reasonably within the contemplation of the parties at the time the policy was issued.

The Virginia Municipal Liability Pool was represented by Carson W. Johnson.



If you would like more information regarding this publication or to discuss this opinion, please contact a member of the firm's coverage practice group:

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