Administrative Office of the Courts

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Supreme Court rules that insurance case decision applies to older policies

SANTA FE – A judicial decision on the limitations of underinsured motorist insurance coverage in New Mexico applies retroactively, the state Supreme Court ruled today.

The Court unanimously declared that its published opinion in the case *Crutcher v. Liberty Mutual Insurance Co.* applies to policies that were sold before the Court's 2022 ruling. In New Mexico, there is a presumption that judicial rulings in civil cases generally apply retroactively.

In the *Crutcher* case, the Court held that underinsured motorist coverage at its minimum liability limits is "illusory" because it will not provide additional benefits to policyholders injured in an accident involving a motorist with the same minimum amount of insurance coverage.

Uninsured motorist and underinsured motorist insurance (UM/UIM) is intended to protect motorists when the other driver lacks enough insurance to cover a person's injuries and damages.

In the *Crutcher* case, the Court ruled that insurance companies must provide a disclosure to customers about the shortcomings of minimum underinsured motorist coverage as a requirement to sell such policies in New Mexico.

The Court issued its opinion today in response to a federal court's request for clarification on whether the *Crutcher* ruling applied retroactively or prospectively. The federal court made the request in a class action lawsuit brought against an insurance company, the Interinsurance Exchange of the Automobile Club, over potential misrepresentations in UIM coverage — one of several such lawsuits against various insurers since the Supreme Court's decision in the *Crutcher* case.

In today's opinion by Justice Briana H. Zamora, the Court explained that "the language in *Crutcher* merely clarifies how our rules should be followed and explains how an insurance company can avoid future liability when selling minimum liability UM/UIM coverage. Nowhere does the word 'prospective' (or any related term) appear in connection with an insured's liability coverage."

"Because there is a presumption that our decisions apply retroactively, when this Court intends a rule to apply prospectively, we articulate prospectivity with an express declaration in unmistakable terms," the Court wrote.

The justices noted that their holding in the *Crutcher* case did not establish a new principle of law in New Mexico and it was "clearly foreshadowed" by the Court's decision in a 2010 insurance case known as *Progressive Northwestern Ins. Co. v. Weed Warrior*.

"While the prospective application of the *Crutcher* holding would perpetuate the illusion identified in *Weed Warrior* and prevent those with illusory UIM coverage prior to *Crutcher* from pursuing claims of misrepresentation, retroactive application will further the policies set out in our prior application of our uninsured motorist statute, requiring that coverage decisions by an insured be knowing and intelligently made," the Court wrote.

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To read the decision in *Smith v. AAA*, No. S-1-SC-39659, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/530781/index.do