

Recent Developments in the Law

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INSURANCE COVERAGE OR LIABILITY FOR UNAUTHORIZED DRIVER: In *Enterprise Leasing Company v. Allstate Leasing Company*, CA No. 33, Sept. Term 1995, February 12, 1996, the Court of Appeals extended more insurance protection to car accident victims, holding that a rental company must pay an injured person's claim even though the car was driven in violation of the rental agreement terms. The Court ruled that those who drive a leased vehicle with or without permission of the lessee, are covered by the lessor's insurance even when the lessee violated the terms of the rental agreement by letting the third person drive. This case is deemed important as it obviates the argument that no insurance coverage is available by virtue of the lessee's violation of the lease provision. Judge Irma S. Raker held that a person given permission to drive a rental car by the person who was authorized to drive it cannot be excluded from coverage even if the car is operated in violation of the rental agreement.

TORT LAW - JURY INSTRUCTION: In *Louise Mallan Kelbaugh v. Jennifer Madeline Mills*, CSA No. 294, Sept. Term 1995, February 5, 1996, the State's intermediary Appellate Court ruled that a trial court erred when it failed to instruct the jury that a vehicle turning left must always yield to any other vehicle approaching from the opposite direction because its denial of the additional instruction prevented the jury from considering appellate's theory of the case. In the *Kelbaugh v. Mills* case, the underlying controlling factor was which of the parties was lawfully within the intersection. Appellant's theory was that the appellant was lawfully within the intersection in accordance with the provisions of the Maryland law. The Court held that when a conflict in the evidence exists as to which party was favored by the traffic control device, the position of each party must be reflected in the Court's charge to the jury. The Court held that the trial Court's failure to offer such an instruction in the case *sub judice* materially prejudiced the appellant's case. The Court thereupon reversed the lower court decision.

The *Allstate* case continues a ten year trend of the Court of Appeals of Maryland to offer more insurance protection in automobile tort cases in accordance with the statutory changes in the Maryland Motor Vehicle Insurance Statute which is predicated upon the principle that the insurance follows the vehicle.

The *Kelbaugh v. Mills* case is viewed as important as it represent a further chipping away at the left hand turn rule, and provides a meaningful defense in those cases where a plaintiff alleges that the defendant is automatically liable under the improper left turn rule and cases. In those instances, a meaningful defense can be tried predicated upon a vehicle lawfully being within the intersection.