

[Cite as *Westmark v. Farmers Ins. of Columbus, Inc.*, 2002-Ohio-1524.]

IN THE COURT OF APPEALS OF FULTON COUNTY

Robert Westmark, et al.                      Court of Appeals No. F-01-018  
Appellants                                      Trial Court No. 00-CV-185

v.

Farmers Insurance of  
Columbus, Inc.

**DECISION AND JUDGMENT ENTRY**

Appellee                                      Decided: March 29, 2002

\* \* \* \* \*

Steven L. Crossmock and Charles E. Boyk, for  
appellants.

Michael J. Manahan, for appellee.

\* \* \* \* \*

KNEPPER, J.

{¶1} Pursuant to the authority of 6th Dist.Loc.App.R. 12(C), this court sua sponte places this case on the accelerated docket. Appellants, Robert Westmark and Judith Kay Stimac, personal representative of the estate of Jeanette Westmark, appeal the judgment of the Fulton County Court of Common Pleas which granted summary judgment to appellee, Farmers Insurance of Columbus, Inc. ("Farmers").

{¶2} Appellant Westmark had a homeowners' insurance policy with Farmers in effect on April 3, 1998, when he was involved in an automobile collision. Appellants claim that the homeowners' policy was actually a motor vehicle liability

policy, for which uninsured/underinsured motorist ("UM") coverage must be offered. Insofar as Farmers failed to offer such coverage, appellants argue that they are entitled to UM coverage as a matter of law for the April 3, 1998 automobile collision.

{¶3} Based upon our decision in Ruiz v. Rygalski (Mar. 29, 2002), Lucas App. No. L-01-1363, unreported, we find appellants sole assignment of error not well-taken. On consideration whereof, the court finds substantial justice has been done the party complaining and the judgment of the Fulton County Court of Common Pleas is affirmed. Appellants are ordered to pay the court costs of this appeal.

{¶4} Insofar as our holding is in direct conflict with Lemm v. The Hartford (Oct. 4, 2001), Franklin App. No. 01AP-251, unreported, which is currently before the Ohio Supreme Court for its consideration,<sup>1</sup> we respectfully submit this case to the Ohio Supreme Court, pursuant to Art. IV, Section 3(B)(4), Ohio Constitution, for review and final determination.

JUDGMENT AFFIRMED.

Peter M. Handwork, J.

James R. Sherck, J.

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JUDGE

<sup>1</sup> Lemm v. The Hartford (2001), 93 Ohio St.3d 1475.

Richard W. Knepper, J.  
CONCUR.

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JUDGE

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JUDGE