IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

BUTLER COUNTY

ANITA HAHN,	:	
Plaintiff-Appellant,	:	CASE NO. CA2001-09-229 (Accelerated Calendar)
	:	
- vs -		<u>JUDGMENT ENTRY</u>
	:	2/4/2002
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, et al.,	:	
	:	
Defendants-Appellees.	:	
	:	

This cause is an accelerated appeal from the Butler County Court of Common Pleas in which the trial court granted summary judgment in favor of defendant-appellee, State Farm Mutual Automobile Insurance Company ("State Farm"). Appellant, Anita Hahn, is insured under a policy with State Farm. She filed an action against State Farm claiming that she is entitled to underinsured motorist (UIM) coverage under the policy for the wrongful death of her brother.

Appellant's assignment of error is overruled since her claim for UIM coverage was not filed within two years of the contractual limitation period. The two-year contractual limitation period began to run on the date the preconditions for payment of UIM benefits were met. <u>Kuhner v. Erie Ins. Co.</u>

(1994), 98 Ohio App.3d 692, 698; <u>Motz v. Erie Ins. Co.</u> (Mar. 12, 1996), Franklin App. No. 95APE09-1144, unreported; <u>Kurtz v. Wayne Mutual Ins. Co.</u> (Nov. 29, 1999), Richland App. No. 99CA24, unreported. In this case, the preconditions for payment were met on the date the tortfeasor's liability insurance was exhausted. We note that our decision in <u>Freeman v. Wayne Mutual Ins. Co.</u> (Feb. 7, 2000), Madison App. No. CA99-07-018, unreported, does not require a different result since the claim in <u>Freeman</u> was timely filed within two years of the date the preconditions for payment were met.

The judgment of the trial court is affirmed.

Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and will not be published in any form. A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

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William W. Young, Presiding Judge

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Anthony Valen, Judge

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Stephen W. Powell, Judge