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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0929**

Sergey Oganov,
Appellant,

vs.

American Family Insurance Group,
Respondent.

**Filed May 13, 2008
Affirmed
Schellhas, Judge**

Hennepin County District Court
File No. 27-CV-06-19028

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Considered and decided by Schellhas, Presiding Judge; Klaphake, Judge; and
Halbrooks, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges the district court's summary judgment dismissing his claim
for uninsured motorist (UM) benefits as time-barred because he filed his complaint

against his insurer more than six years after the accident occurred. Because we conclude that the statute-of-limitations period for UM claims begins to run on the date of the accident, we affirm.

FACTS

Appellant Sergey Oganov was injured on January 18, 1999, when his vehicle was struck by a snowplow owned by his employer and operated by a coworker. Appellant was personally insured by respondent American Family Insurance Group at the time of the accident, and his policy included UM coverage. Appellant's employer was insured by Legion Insurance Company.

On October 22, 2001, appellant's attorney sent a letter to Legion asking for resolution of appellant's claim. Legion responded with a denial of liability for the claim on the ground that appellant's injury predated the accident. On June 3, 2003, Legion sent a letter to appellant's new attorney, apparently in response to another request for resolution of the claim. Legion again denied liability. In its June 3, 2003 letter, Legion advised appellant's counsel that it was placed in rehabilitation by a Pennsylvania court that had ordered all litigation and negotiations stayed until June 30, 2003. Legion was declared insolvent and liquidated by the Commonwealth Court of Pennsylvania, effective July 28, 2003.

Because appellant's policy with American Family included UM coverage, on June 23, 2005, appellant notified American Family that he was pursuing a UM claim against it. The American Family policy defines an uninsured motor vehicle as one where

“the company denies coverage or is or becomes insolvent within one year after the accident.”

On August 17, 2006, appellant commenced suit against American Family to recover UM benefits. American Family moved for summary judgment on the grounds that (1) the statute of limitations barred appellant’s claim because he commenced his suit more than six years after the accident and (2) the snowplow did not meet the definition of an “uninsured motor vehicle” in its policy because Legion was liquidated four and one-half years after the accident. The district court granted summary judgment to American Family based on the statute of limitations without reaching the issue of whether the snowplow was an “uninsured motor vehicle” under the terms of American Family’s policy.

D E C I S I O N

This court reviews de novo a district court’s construction and application of a statute of limitations. *Noske v. Friedberg*, 670 N.W.2d 740, 742 (Minn. 2003). Because a UM claim is a contract cause of action, a six-year statute of limitations applies. *Miklas v. Parrott*, 684 N.W.2d 458, 460-61 (Minn. 2004). The limitations period begins to run when “the cause of action accrues or can be commenced.” *Hughes v. Lund*, 603 N.W.2d 674, 677 (Minn. App. 1999). Here, the issue is whether the cause of action for a UM claim accrues on the date of the accident or the date the motorist becomes uninsured.

In granting summary judgment to American Family, the district court relied on *Weeks v. Am. Family Ins. Co.*, 580 N.W.2d 24, 27 (Minn. 1998), *overruled by Oanes v. Allstate Ins. Co.*, 617 N.W.2d 401 (Minn. 2000). In *Weeks*, the supreme court held that a

cause of action for UM benefits accrues on the date of the accident. Appellant argues that, because the *Weeks* court relied heavily on the holding in *O'Neill v. Ill. Farmer's Ins. Co.*, 381 N.W.2d 439 (Minn. 1986), which the supreme court later overturned in *Oanes*, this court should not rely upon *Weeks* to determine the accrual date of appellant's claim. Additionally, appellant argues that *Weeks* does not apply because it is factually distinct from this case.

In *Weeks*, the plaintiff presented her insurer with a claim for UM benefits approximately five years after she was injured in an accident. 580 N.W.2d at 25. The insurer denied the plaintiff's claim and she sued her insurer approximately eight years after the accident. *Id.* The district court granted the insurer's motion for summary judgment, concluding that the insurer's obligation to pay UM benefits, if any, arose on the date of the accident and that the statute of limitations had run. *Id.* at 26. This court reversed, holding that *Weeks*'s cause of action accrued when the insurer denied her request for UM benefits. *Id.* The supreme court reversed this court, reasoning that setting the accrual date at the date of the accident more properly reflects the tort nature of UM claims and concluding that "the cause of action for UM benefits accrues on the date of the accident." *Id.* at 27. Noting that in most jurisdictions a UM claim is treated as a breach-of-contract claim and the cause of action accrues when the insurer breaches its duty to pay a claim, the *Weeks* court recognized that "Minnesota takes the minority position in concluding that a cause of action for UM and [underinsured motorist (UIM)] benefits accrues on the accident date." *Id.* The *Weeks* court stated that it remained committed to its reasoning in *O'Neill*, choosing to leave its holding undisturbed and

extending it to UM claims because of the similarities between the two types of claims. *Id.* In reaching its decision, the *Weeks* court referred to the concern it had expressed in *O'Neill*, that if a cause of action accrued “only after a claimant has demanded payment and the insurance company had rejected the claim, a plaintiff would be allowed to indefinitely postpone the running of the statute of limitations,” and stated, “[a]lthough *Weeks*’ cause of action was for UM benefits, not UIM benefits, our reasoning in *O'Neill* and subsequent cases applies equally to a cause of action for UM benefits.” *Id.* at 26.

In *Oanes*, the supreme court “overrule[d] the *O'Neill-Weeks* line of cases to the extent that they articulate[d]” a “rule that a UIM claim accrues on the date of the accident that causes the injury,” and held that a UIM claim accrues and the statute of limitations begins to run on the date of settlement with or judgment against the tortfeasor. 617 N.W.2d at 406. Appellant argues that the holding in *Oanes* should apply to his claim, not *Weeks*, because in *Weeks* the UM claim was cognizable on the date of the accident when the other drivers fled the scene of the accident. Appellant argues that in his case, no UM claim existed until more than four years after the accident, when the tortfeasor’s insurer became insolvent. But despite the factual differences between appellant’s case and *Weeks*, the *Weeks* court established a clear rule for setting the accrual date for UM claims and the *Oanes* court did not overrule that rule. Moreover, the *Oanes* court reiterated “the concerns [it] articulated in *O'Neill* and reiterated in *Weeks*” “that, if the accrual date was the date of the breach of the insurance contract, that is, the date the claim was denied, the insured would be able to postpone the operation of the statute of limitations indefinitely. *Id.*

If this court were to accept appellant's argument, we would be impermissibly overruling the supreme court's decision in *Weeks*. See *Lake Superior Ctr. Auth. v. Hammel, Green & Abrahamson, Inc.*, 715 N.W.2d 458, 483 (Minn. App. 2006) (holding that the court of appeals has no authority to overrule decisions of the supreme court), *review denied* (Minn. Aug. 23, 2006). In this case, we must apply the rule in *Weeks* that a UM claim accrues and the statute of limitations begins to run on the date of the accident and therefore appellant's UM claim is time-barred. We need not reach the issue of whether the definition of "uninsured motor vehicle" in appellant's policy precluded recovery.

Affirmed.