



IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
|------------------------|---|-----------------------------------|
| MARIO DE LOS SANTOS, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | No. 437, 2024 |
| |) | |
| ALLSTATE PROPERTY AND |) | On Appeal from the Superior Court |
| CASUALTY INSURANCE |) | of the State of Delaware, |
| COMPANY and STATE FARM |) | C.A. No. N22C-08-418 MAA |
| MUTUAL AUTOMOBILE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Appellees. |) | |

APPELLANT'S REPLY BRIEF

NITSCHKE & FREDRICKS, LLC
Gary S. Nitsche, P.A. (ID 2617)
James Gaspero, Jr., Esq. (ID 5893)
305 North Union Street, Second Floor
P.O. Box 2324
Wilmington, DE 19899
(302) 655-4040
Attorneys for Appellant

Dated: February 21, 2025

TABLE OF CONTENTS

| | |
|---|----|
| TABLE OF AUTHORITIES..... | ii |
| I. NATURE AND STAGE OF THE PROCEEDINGS..... | 1 |
| II. ARGUMENT..... | 2 |
| A. The Superior Court erred in granting summary judgment for Appellee State Farm because the legislative intent of 18 <i>Del. C.</i> §3915 was to reduce the number of uninsured drivers..... | 2 |
| 1. Question Presented..... | 2 |
| 2. Scope of Review..... | 2 |
| 3. Merits of the Argument..... | 2 |
| III. CONCLUSION..... | 9 |

TABLE OF AUTHORITIES

Cases

| | |
|---|---|
| <i>DeMatteis v. RiseDelaware Inc.</i> , 315 A.3d 499 (Del. 2024)..... | 2 |
| <i>Dimenco v. Selective Ins. Co. of Am.</i> , 833 A.2d 984 (Del. Super. Ct. 2003)..... | 7 |
| <i>Harris v. Prudential Prop. & Cas. Ins. Co.</i> , 632 A.2d 1380 (Del. 1993)..... | 5 |
| <i>Passwaters v. State Farm Mut. Auto. Ins. Co.</i> , 1997 WL 363969 (Del. Super. Ct. Mar. 27, 1997) | 6 |
| <i>Paul v. Deloitte & Touch LLP</i> , 974 A.2d 140 (Del. 2009)..... | 2 |
| <i>State Farm Mut. Auto. Ins. Co. v. Clarendon Nat. Ins. Co.</i> , 604 A.2d 384 (Del. 1992)..... | 5 |
| <i>State Farm Mut. Auto. Ins. Co. v. Kelty</i> , 126 A.3d 631 (Del. 2015)..... | 5 |
| <i>State Farm Mut. Auto. Ins. Co. v. Mundorf</i> , 659 A.2d 215 (Del.1995)..... | 7 |
| <i>USAA Cas. Ins. Co. v. Carr</i> , 225 A.3d 357 (Del. 2020)..... | 6 |

Statutes

| | |
|---|------------------------|
| 18 <i>Del. C.</i> § 3915..... | 2, 3, 4, 5, 6, 7, 8, 9 |
| Del. Code Ann. tit. 21, § 2118(a)(2)(b) | 5 |
| Del. Code Ann. tit. 21, ch. 29..... | 5 |

Other Authorities

Delaware Department of Insurance Auto Bulletin No. 7.....3

I. NATURE AND STAGE OF THE PROCEEDINGS

Appellant filed his Opening Brief on December 3, 2024. Appellee Allstate filed its Answering Brief on December 17, 2024. Appellee State Farm filed its Answering Brief on January 2, 2025. By letter dated February 2, 2025, the Supreme Court of Delaware directed Appellant to file a Reply Brief by February 25, 2025. This is Appellant's Reply Brief.

II. ARGUMENT

- A. The Superior Court erred in granting summary judgment for Appellee State Farm because the legislative intent of 18 *Del. C.* §3915 was to reduce the number of uninsured drivers.

1. Question Presented

Did the Superior Court err in granting summary judgment for Appellee State Farm by narrowly interpreting 18 *Del. C.* § 3915, which governs the cancellation of policies and refunds, as applying solely to refund procedures rather than ensuring continuous coverage during the insured's transition between policies?

2. Scope of Review

The Supreme Court reviews a motion for summary judgment de novo, applying the same standard as the trial court. *Paul v. Deloitte & Touch LLP*, 974 A.2d 140, 145 (Del. 2009). Questions of law, including statutory interpretation, are reviewed de novo. *DeMatteis v. RiseDelaware Inc.*, 315 A.3d 499, 508 (Del. 2024).

3. Merits of the Argument

The Superior Court Erred By Focusing Narrowly On The Procedural Aspects Of 18 *Del. C.* § 3915 And Disregarding Its Broader Purpose Of Consumer Protection During Transitions Between Insurance Policies.

Section 3915 of Title 18 of the Delaware Code requires that an insured be covered by other insurance before completing a cancellation and issuing a refund.

Appellant Mario De Los Santos (“De Los Santos”) took steps to ensure continuous insurance coverage, including notifying State Farm of his intent to cancel the policy and securing coverage with Allstate.¹ Despite these efforts, State Farm withdrew from De Los Santos’ bank account payment for the policy on October 5, 2021, the same day as the effective date of the cancellation.² State Farm however did not confirm the Allstate coverage until November 1, 2021, almost a month later, and denied coverage after the October 7, 2021 accident.³ This sequence of events demonstrates that State Farm failed to follow the statute’s consumer protection intent by not confirming valid replacement coverage before canceling De Los Santos’ policy.

The Delaware Department of Insurance confirmed its understanding of the legislative intent behind 18 *Del. C.* §3915, in Auto Bulletin No. 7 issued in 1992.

Auto Bulletin No. 7 states:

The Department will approve for use in Delaware only affidavits which comply with the legislative intent to reduce the number of uninsured drivers by requiring proof of substitute minimum coverage under the no fault law.

¹ App. at A057 at 71:3-23.

² App at A275-A276.

³ App. at A110.

This statement is the clearest indication cited thus far of the legislative intent of 18 *Del. C.* §3915, which supports De Los Santos' position that the purpose transcends the mere refunding of any premium.

The statute's provision requiring "sufficient evidence" of alternative coverage ties the cancellation process directly to the refund, making it a protective mechanism for the insured. Section 3915(a) of Title 18 of the Delaware Code states that "no insurer shall honor a request for a cash refund on cancellation of a policy by the insured until such time as the insured has provided sufficient evidence" of specific conditions, including "other insurance in effect" or the vehicle being no longer operable. This provision ensures that the insured is not left without coverage during policy transitions, reflecting the legislature's intent to prevent coverage gaps.

The Superior Court's interpretation, which limits Section 3915 to refund procedures, neglects this essential consumer protection purpose. By allowing cancellation without confirming replacement coverage, the Court effectively undermined the statute's intent to safeguard continuous insurance coverage during transitions. In De Los Santos' case, State Farm failed to ensure he had continuous coverage despite his efforts to secure alternative insurance. Therefore, the cancellation should not have been effective until confirmation of alternative coverage.

Delaware's Statutory Framework Reflects a Strong Public Policy to Prevent Uninsured Drivers, Reinforcing the Protective Purpose of 18 Del. C. § 3915.

Delaware has long demonstrated a commitment to ensuring that all motor vehicle operators are adequately insured, implementing a comprehensive statutory framework designed to protect accident victims and reduce the number of uninsured drivers on the road. The Delaware Financial Responsibility Law, codified in Del. Code Ann. tit. 21, ch. 29, requires all vehicle owners to maintain minimum levels of liability insurance to protect and compensate individuals injured in automobile accidents. *See Harris v. Prudential Prop. & Cas. Ins. Co.*, 632 A.2d 1380, 1382–83 (Del. 1993); *State Farm Mut. Auto. Ins. Co. v. Kelty*, 126 A.3d 631, 635–36 (Del. 2015).

Under this statutory framework, Delaware mandates that drivers maintain a minimum of \$25,000 in liability coverage for bodily injury to any one person and \$50,000 for bodily injury to all persons in a single accident. *See 21 Del. C. §2118(a)(2)(b)*. However, Delaware's policy extends beyond simply requiring minimum coverage. The State encourages drivers to obtain more than the minimum amount of insurance to ensure greater financial protection in the event of an accident. *See State Farm Mut. Auto. Ins. Co. v. Clarendon Nat. Ins. Co.*, 604 A.2d 384, 387–90 (Del. 1992).

This statutory scheme reflects Delaware’s fundamental policy goal of ensuring that individuals injured in automobile accidents are compensated fairly and that drivers do not experience lapses in coverage. The Delaware Supreme Court has repeatedly recognized that the purpose of these statutes is to promote continuous and adequate insurance coverage to protect both drivers and victims. *See USAA Cas. Ins. Co. v. Carr*, 225 A.3d 357, 359–64 (Del. 2020) (recognizing Delaware's public policy goal of protecting individuals injured in automobile accidents through broad interpretations of insurance coverage); *Passwaters v. State Farm Mut. Auto. Ins. Co.*, No. CIV. A. 95C08038 HDR, 1997 WL 363969, at *2–5 (Del. Super. Ct. Mar. 27, 1997) (finding that Delaware’s motor vehicle insurance statutes promote continuous and adequate insurance coverage to protect both drivers and victims and that exclusions encouraging vehicle owners to maintain their own coverage are consistent with public policy).

Given this context, it would be illogical to interpret 18 *Del. C.* § 3915 as merely a procedural mechanism for refunding premiums rather than as a statute intended to prevent uninsured drivers and ensure continuous coverage during policy transitions. The language of Section 3915 requires insurers to verify that alternative coverage is in place before honoring a request for a refund of unearned premiums. This provision should be interpreted in alignment with Delaware’s broader statutory framework, which prioritizes continuous insurance coverage.

Allowing an insurer to cancel a policy without confirming that replacement insurance is in effect, would directly contradict Delaware’s public policy of protecting accident victims and ensuring that all drivers remain insured. Delaware Courts have emphasized that insurance statutes should be interpreted in a manner that avoids gaps in coverage. *See Dimenco v. Selective Ins. Co. of Am.*, 833 A.2d 984 (Del. Super. Ct. 2003); *State Farm Mut. Auto. Ins. Co. v. Mundorf*, 659 A.2d 215 (Del. 1995).

In De Los Santos’ situation, State Farm’s failure to ensure continuous coverage by confirming replacement insurance before finalizing the cancellation directly contradicts the intent of the statute. State Farm withdrew the premium payment from De Los Santos’ bank account on October 5, 2021, but did not confirm Allstate coverage until November 1, 2021, leaving De Los Santos without coverage at the time of the October 7, 2021 accident.⁴ This scenario directly conflicts with the statutory protection afforded by Section 3915, which mandates that the insurer ensure continuous coverage before canceling the policy.

The Superior Court’s interpretation of Section 3915 as merely a refund statute is inconsistent with Delaware’s broader insurance laws, which prioritize protecting accident victims and preventing uninsured drivers. Delaware’s statutory scheme demonstrates a clear intent to prevent gaps in coverage. Therefore, the Superior

⁴ App. at A110; App at A275-A276.

Court's narrow interpretation of Section 3915 as a refund procedure is at odds with the State's overarching policy objectives. The Court's interpretation creates a dangerous precedent by allowing insurers to cancel policies without ensuring that replacement coverage is in place, thereby exposing insureds and the public to the risks associated with uninsured driving.

III. CONCLUSION

The Superior Court erred in granting summary judgment by misinterpreting 18 *Del. C.* § 3915 and failing to consider its broader purpose of consumer protection. The statute requires that cancellation should not occur until the insured has valid coverage or meets other specified conditions. The Court's narrow focus on refund procedures disregards the intent to prevent coverage lapses. The judgment should be reversed, and the case should proceed to trial to resolve the material facts in dispute.

De Los Santos acted in good faith, he did everything he could do and was required to do to ensure he had insurance coverage. State Farm did not. State Farm failed to comply and failed to ensure other insurance coverage was in effect before they cancelled De Los Santos' policy. In doing so, State Farm violated the intent of the statute and left De Los Santos uninsured, despite his payment for insurance coverage with State Farm. State Farm's actions caused De Los Santos' lack of insurance coverage. This Court is respectfully urged to reverse the Superior Court's Order and provide guidance on the proper application of 18 *Del. C.* §3915 to ensure that individuals are not unjustly left without insurance coverage while engaging in good-faith efforts to maintain auto insurance coverage.

NITSCHKE & FREDRICKS, LLC

/s/ Gary S. Nitsche

Gary S. Nitsche, P.A. (ID 2617)

James Gaspero, Jr., Esq. (ID 5893)

305 North Union Street, Second Floor

P.O. Box 2324

Wilmington, DE 19899

(302) 655-4040

Attorneys for Appellant

Dated: February 21, 2025