

The Court giveth and the Court (of Appeal) taketh away – The Court of Appeal Clarifies Role of Monthly Reporting of Fleet Schedules and the Operation of OPCF 21A

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In our 2025 Q3 Newsletter, I wrote about the Ontario Superior Court decision in *West York Sales and Leasing Inc. v. The Dominion of Canada General Insurance Company*, 2025 ONSC 3845, dealing with coverage under a fleet insurance policy which included a monthly schedule of vehicles provided by the insured. The Superior Court ruled that such policies covered a vehicle owned by the insured prior to commencement of the coverage period even though it had not been added to the schedule of vehicles until after an accident.

In that article, I referred to the relative good luck of the insured as an alignment of the stars. The Court of Appeal has now overturned the decision, apparently taking a dimmer view of astrology's application to matters of insurance coverage. In their decision, the Court of Appeal has provided important clarity on the role of monthly reporting of fleet schedules and the operation of OPCF 21A.

This decision shows that carriers must be deliberate in how they employ units owned at the time of their insurance renewal, particularly those held in reserve as potential temporary replacements for active units.

If units are not initially listed in the fleet schedule, a separate request for insurance is required for each one before they will be insured under the policy. Such units cannot be added to the policy retroactively and if they are put on the road without an independent request for coverage, carriers run the serious risk of operating those vehicles without insurance.

The Superior Court Decision

In the lower court, West York Sales and Leasing Inc. ("**West York**") brought an application seeking a declaration that it was entitled to coverage under a policy of insurance with an OPCF 21A Endorsement issued by The Dominion General Insurance Company of Canada ("**Dominion**"). This endorsement was a fleet policy which allowed the insured to add or remove units from the schedule of insured vehicles on a monthly basis.

One of West York's vehicles, which it had leased to a third party, was involved in an automobile accident on August 25, 2020. This vehicle had not been included in the schedule for the OPCF21A at the commencement of coverage though it had been owned or leased at that time. The vehicle was subsequently added to the schedule in September 2020 and was listed as having been received on August 15, 2020.

The OPCF 21A endorsement states that (a) coverage applies to all vehicles owned or leased by the insured for more than 30 days at the beginning of the policy term provided they are listed on the schedule of vehicles; and (b) the insured may add new vehicles to the schedule on a monthly basis by providing notification of the same to the insurer; but (c) if a vehicle was owned by the insured at the start of the policy but was not included in the schedule at the beginning of the

coverage period, a separate request for coverage must be made in order to add that vehicle to the policy.

The lower court held that an OPCF 21A endorsement was not part of the contract of insurance for the purposes of interpretation and because paragraph (a) of OPCF 21A stated that coverage applied to all vehicles owned or leased by the insured for more than 30 days at the beginning of the policy term, then the vehicle was covered notwithstanding any other wording contained in OPCF 21A.

As a result, Dominion was required to defend and indemnify under the policy. Dominion then appealed to the Court of Appeal.

The Court of Appeal Decision

The Court of Appeal (2026 ONCA 553) overturned the decision of the Superior Court finding that the judge had erred in interpreting OPCF 21A. The Court found that while OPCF 21A provided coverage for vehicles owned or leased by the insured for more than 30 days at the time coverage commenced, it did so subject to other terms in the policy.

Critically for West York, this coverage was subject to paragraph (c) of OPCF 21A which provided that any automobile owned or leased at the inception of the policy but not included on the schedule at that time could not be added without first making a separate request for coverage to the insurer. The mere act of owning or leasing the vehicle at the time the policy came into effect was insufficient to provide coverage if not initially listed in the schedule of vehicles.

The Court held that while OPCF 21A allows for retroactive coverage in circumstances where new vehicles are added, the monthly reporting under fleet policies exists to assess the premium payable by the insured for those vehicles already covered under the policy and has no function in providing coverage for them. In short, monthly reporting of fleet schedules will not provide coverage where coverage does not otherwise exist.

In this matter, as no communication had been made to the insurer about the vehicle until after the accident, the Court found it could not be said there was a request for coverage and the OPCF 21A does not provide retroactive coverage for vehicles owned or leased at the commencement of the policy period.

A Warning to Fleet Policy Holders

The Court of Appeal did not define a “request for coverage” but noted that there could be no coverage until a request was made. The principal import of this case for carriers is that requests for coverage, whatever form they may take, will not apply retroactively. Whereas a new vehicle added to a schedule in a subsequent reporting cycle is entitled to retroactive coverage under OPCF 21A, any vehicle requiring a request for coverage, such as those already owned by the insured but not initially listed, will not be covered before the date of the request. To be certain of coverage, carriers should assume that no coverage will apply until such a request is actually approved by the insurer.

Carriers whose insurance coverage involves monthly reporting of fleet schedules should be mindful of the impact of this decision on their fleet planning. Many companies have older vehicles kept in reserve which may not have been added to their fleet schedule at the commencement of the policy. In the event they plan to place those vehicles on the road to replace others undergoing repairs or to provide supplemental capacity during busy times, they must first make a request for coverage to their insurers or those vehicles will not be insured.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).



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