

AB Coverage and ‘Comprehensive Only’ Policies: *Dominion v. Optimum*, 2016 ONSC 985

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On February 8, 2016, the Ontario Superior Court released the decision of Justice Perell on an appeal of a priority dispute in *The Dominion of Canada General Insurance Company v. Optimum Insurance Company*, 2016 ONSC 985. This decision addressed coverage for accident benefits in the context of a “comprehensive only” policy.

At arbitration, Arbitrator Bialkowski held that, when reducing a full liability policy to a “comprehensive only” policy, an insurer must use an approved form (OPCF-16), as required by s. 227 of the *Insurance Act*. Otherwise, if the policy is simply renewed with reduced coverages, the policy and any subsequent renewal is deemed to continue to include accident benefits coverage as provided by all motor vehicle liability policies. As such, the arbitrator found that the Dominion “comprehensive only” policy provided accident benefits, and Dominion was the priority insurer.

The arbitration decision was upheld on appeal to Justice Perell, who confirmed that the only way an insurer can reduce a full coverage motor vehicle liability policy to a “comprehensive only” policy is to properly use the OPCF-16 form or to cancel the existing policy and issue a new “comprehensive only” policy.

This is an important decision, and may well be further appealed.

The full decision, *The Dominion of Canada General Insurance Company v. Optimum Insurance Company*, 2016 ONSC 985, is available through the following link:
<https://www.canlii.org/en/on/onsc/doc/2016/2016onsc985/2016onsc985.html?resultIndex=1>