

Campos v. Aviva Canada Inc. (2006), 38 C.C.L.I. (4th) 218 (Ont. S.C.J.).

Proposition of Law:

Plaintiff brought action for damages arising from a collision in 2001 involving motor vehicle owned by insured and driven by her mother – Mother breached her restricted driver's license by having alcohol in blood – Although aware of this, insurer appointed counsel to represent insured in 2003 – Insurer learned in 2004 that insured allowed mother to drive vehicle on regular basis – Insurer would have denied mother coverage because of prior license suspension – Insured brought action against insurer for declaration of coverage – Action dismissed – Appointment of counsel did not amount in circumstances to estoppel or waiver of right to rely on insured's breach of conditions of policy – Insured had duty to name mother as driver on policy – Failure to advise of material change and risk entitled insurer to deny coverage – Insurer was entitled to retain premium as it provided coverage to insured for her own driving and that of other authorized users.