

# Superior Court of New Jersey



Chambers of  
**WILLIAM J. COOK**  
Judge

CAMDEN COUNTY

CAMDEN COUNTY HALL OF JUSTICE  
101 SOUTH FIFTH STREET  
CAMDEN, NEW JERSEY 08103-4001  
(609) 225-7142

February 2, 2001

Emille R. Cox  
Clerk, Appellate Division  
Superior Court of New Jersey  
Hughes Justice Complex  
25 W. Market Street  
P. O. Box 006  
Trenton, New Jersey 08625

RE: Christine R. Vassiliu, as General Administratorix and  
as Administratrix *ad Prosequendum* of the Estate of  
Hristos Vassiliu, Deceased v. Daimler Chrysler  
Corporation, et al  
Superior Court of New Jersey  
Camden County, Law Division  
Docket No. L-4883-97

And

Christine R. Vassiliu, as General Administratorix and  
as Administratrix *ad Prosequendum* of the Estate of  
Hristos Vassiliu, Deceased v. Prudential Property &  
Casualty Insurance Company and Selective Insurance  
Company  
Superior Court of New Jersey  
Camden County, Law Division  
Docket No. 6531-00  
(Consolidated)

Dear Mr. Cox:

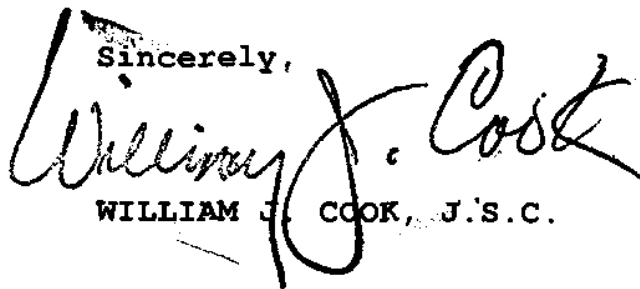
The Court has received copies of the Notices of Appeal of  
the defendants Prudential and Selective.

The following is submitted by way of amplification of the  
Court's December 18, 2000 Opinion, pursuant to R.2:5-1(b):

Prudential and Selective relied upon Miller v. Estate of Sperling, 326 N.J. Super. 572 (App. Div. 1999) to support their argument that wrongful death and survivor action claims should be lumped together so as to form only one person or claim, for purposes of "per person" split limits insurance coverages. For the reasons stated at pp. 20-24 of the December 18, 2000 Opinion, the Court determined that the Appellate Division opinion in Miller v. Estate of Sperling was not supportive of Prudential's and Selective's position.

On January 22, 2001, the Supreme Court reversed the judgment of the Appellate Division in Miller v. Estate of Sperling (A-90-99). In doing so, the Supreme Court overruled Knabe v. Hudson Bus Transp. Co., 111 N.J.L. 333 (E.&A. 1933), which the Appellate Division relied upon in Miller v. Estate of Sperling. The Supreme Court held that wrongful death claims and survivor action claims are separate claims for statute of limitation purposes. Thus, a decedent's failure to file a personal injury action within the limitations period for such actions during his or her lifetime will not bar a wrongful death claim. The Supreme Court cited Judge King's opinion in Alfone v. Sarno, 168 N.J. Super. 315 (App. Div. 1979), aff'd and modified, 87 N.J. 99 (1981). Judge King concluded in Alfone that a wrongful death action and survivor action are separate and independent causes of action. Miller, \_\_\_ N.J. \_\_\_, slip op. at 12-13. Writing for the Supreme Court in Miller, Justice Zazzali concluded that a wrongful death claim is an independent cause of action that is not derivative in nature and is therefore not contingent upon the filing of a personal injury action by the decedent during his or her lifetime. Slip Op. at 2.

Sincerely,

A handwritten signature in black ink that reads "William J. Cook". The signature is written in a cursive style with a large, sweeping "W" and "C".

WILLIAM J. COOK, J.S.C.

WJC:sg

cc: Louis J. DeVoto, Esq.  
Daniel J. Pomeroy, Esq.  
Barbara J. Davis, Esq.  
Stephen G. Sobocinski, Esq.