

01/12/2018 - By Chantel Celichowski

Mens Rea of Unidentified Driver Irrelevant for “Hit-and-Run Motor Vehicle” Coverage under UM Policy

In Minnesota, mandatory “uninsured motorist coverage” includes coverage for bodily injury caused by “hit-and-run motor vehicles.” But until this past week, it wasn't clear exactly what constitutes a “hit-and-run motor vehicle.”

A worker power washing the interior of a parking ramp was injured when an SUV caught and drug the hose of the power washer, which then struck and knocked the worker to the ground. The SUV did not stop, and its driver was never identified. The injured work made a claim for uninsured-motorist (UM) benefits, but her insurer denied coverage, arguing the insured could not prove the SUV was a “hit-and-run vehicle” because she could not show that the driver fled the scene to avoid liability. The insurer also argued that the insured failed to produce evidence that the SUV driver was negligent.

The district court granted summary judgment for the insurer, and the insured appealed. The court of appeals reversed. *Russell v. Sentinel Ins. Co., Ltd.*, ___ N.W.2d ___, 2018 WL 256728 (Minn. App.) . Because neither the insured's policy nor the Minnesota No-Fault Automobile Insurance Act defined “hit-and-run vehicle,” the court turned to dictionary definitions and case law to determine the ordinary meaning of the term. Relying on *Halseth v. State Farm Mut. Auto. Ins. Co.*, 268 N.W.2d 730 (Minn. 1978) , in which the supreme court announced that for hit-and-run UM coverage, the phrase hit-and-run is more expansive than the literal meaning of “hit,” the court of appeals held that the phrase hit-and-run was also more expansive than the literal meaning of “run.” In so holding, the court of appeals declined to follow the *Halseth* court's interpretation of “run” in dictum to mean “flee” and determined that the mens rea of the unidentified driver was irrelevant.

In sum, an insured is not required to show that an unidentified driver fled, or left, with the intent to escape liability. The insured must simply prove that the driver did not stop and cannot be identified.

The court of appeals also determined there was a genuine issue of material fact as to whether the unidentified driver was negligent and remanded the case back to district court.

If you have questions regarding the court of appeals' decision or any other UM or other motor vehicle insurance issues, please contact Dale O. Thornsjo , Lance D. Meyer , Michael M. Skram , or one of the other members of our Firm's Insurance Coverage and Motor Vehicle Practice Groups at (952.831.6544).