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MN Court of Appeals Holds that Failure to Sue Tortfeasor Precludes UIM Claim

In *Ronning v. State Farm*, A16-0538, the Minnesota Court of Appeals ruled in a published decision that insureds who fail to sue the tortfeasor may not bring a claim for underinsured motorist benefits because their claim has not ripened.

In this case, an insured who suffered permanent injuries in a car accident failed to sue the tortfeasor because he missed the statute of limitations. The insured brought a malpractice action against its attorney and settled out of court. The insured then made a claim for underinsured motorist benefits from State Farm and purportedly sent a Schmidt-Clothier notice, informing of the tentative settlement with its attorney.

In arguing his claim should go forward, the insured claimed the statutory language in the No-Fault Act requiring the insured be "legally entitled to recover damages" only meant proof of fault and damages, not the recover-from-tortfeasor condition that is articulated by the court in *Employers Mut. Cos. v. Nordstrom*, 495 N.W.2d 855, 857 (Minn. 1993) (finding that "a recovery from the tortfeasor's liability insurance is a nonarbitrable condition precedent to bringing an underinsured claim. Until there has been a recovery from the tortfeasor's insurer, the claimant's underinsured claim simply has not matured."). Further, the insured argued he may proceed with his unripe claim "so long as he 'credits'" his insurer for the full liability limits of the tortfeasor's insurance. The court of appeals rejected both arguments, finding the insured had a more appropriate remedy in the malpractice lawsuit against his attorney.

If you have questions regarding the court of appeals' decision or other liability related issues, please contact a member of our Liability Practice Group at (952- 831-6544). To read the full text of the case, [click here](#).