

# **LUCAS AND CAVALIER SUCCESSFULLY OBTAINS IMMEDIATE DISMISSAL OF UNDERINSURED MOTORIST CLAIM IN PHILADELPHIA COURT**

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**By Thomas L. Mueller**

The Court of Common Pleas for Philadelphia County, Pennsylvania recently dismissed an underinsured motorist complaint filed against a UIM carrier represented by LUCAS AND CAVALIER, LLC.

In Curran, No. 181003373, Plaintiff alleged she was in a motor vehicle accident on October 21, 2015, resulting from a tortfeasor running a red light and striking Plaintiff's vehicle. The tortfeasor was insured with limits of \$50,000/\$100,000, and a tort action was initiated in federal court. After a federal arbitration panel considered Plaintiff's claims, it determined Plaintiff was entitled to an award of \$50,000. Plaintiff subsequently filed the subject underinsured motorist claim against her auto insurer.

Defendant immediately filed Preliminary Objections on the basis that Plaintiff's damages claims had been completely adjudicated by the federal arbitration panel considering the tort action, and the damages fell within the tortfeasor's policy limits. Accordingly, Defendant argued Plaintiff was precluded from asserting a claim for underinsured motorist benefits.

On April 25, 2019, the court entered an Order denying Defendant's Preliminary Objections. Undeterred, Defendant filed a Motion for Reconsideration arguing "Plaintiff's damages claims already have been litigated; a determination of the value of Plaintiff's claims has been made; and Plaintiff cannot now be heard to plead for damages in excess of the arbitration award in the [tort case]." Put simply, Defendant argued Plaintiff already had been fully compensated for her injuries and she is collaterally estopped from asserting a UIM claim.

The court granted Defendant's Motion for Reconsideration and dismissed Plaintiff's Amended Complaint with prejudice. Plaintiff's subsequent efforts to have this decision overturned were opposed by our firm and ultimately were unsuccessful, thereby forever disposing of Plaintiff's claims against the UIM carrier. The case was dismissed before any written discovery was served and without depositions occurring.

The attorneys at LUCAS AND CAVALIER, LLC are never deterred by rulings or venues perceived to be unfavorable to our clients. We will continue to zealously advocate for our clients' interests in an effort to prevent manifest injustices. As always, we are available to answer any questions arising from this case.