

February 9, 2006

**MINNESOTA COURT OF APPEALS APPLIES “OCCUPANCY” AND “MAINTENANCE OR USE”
STANDARDS FOR PURPOSES OF UNDERINSURED MOTORISTS COVERAGE**

In Illinois Farmers Ins. Co. v. Marvin, ___ N.W.2d ___ (File A05-874, January 17, 2006), the Minnesota Court of Appeals held a person loading objects into an insured, parked vehicle was an occupant of that vehicle and should be afforded underinsured motorist (UIM) benefits, even though the insured vehicle was not the direct cause of the injuries sustained.

Plaintiff, Marvin, was accompanying an Illinois Farmers’ named insured, Tonya Weigel, to pick up items at a family member’s house. While Plaintiff was loading items into the cargo area of Weigel’s vehicle, and after she was no longer in contact with the vehicle, another vehicle backed into her, crushing Plaintiff’s legs between the bumpers of the two automobiles. Plaintiff settled a claim against the at-fault driver, but the settlement was not adequate to fully compensate her for her injuries, which included several broken bones. Plaintiff then brought a claim for UIM benefits against Weigel’s insurer, Illinois Farmers. The District Court determined Plaintiff was entitled to UIM benefits from Weigel’s policy after both parties moved for summary judgment. Illinois Farmers appealed to determine whether Plaintiff was an occupant for purposes of UIM coverage and if her injuries arose from the maintenance or use of a motor vehicle.

The Court of Appeals held that because Plaintiff was in the process of loading the vehicle, and the upper half of her body had been in the vehicle moments before the accident, that she was an occupant for purposes of UIM coverage. The Court of Appeals also held that in order for the occupant to receive benefits, there must be some causal connection between the occupancy and the injury sustained. To make this connection, it must be determined whether plaintiff’s injury arose out of the maintenance or use of the vehicle. Such a determination is very fact-specific. In determining whether plaintiff’s injuries arose from the maintenance or use of a vehicle Minnesota courts apply the three-prong test established in Continental Western Ins. Co. v. Klug, 415 N.W.2d 876 (Minn. 1987):

- 1) Was the vehicle an “active accessory” in the injury;
- 2) Was there an act of independent significance sufficient to break the causal connection; and
- 3) Was the automobile used for transportation purposes.

The parties stipulated that the Weigel vehicle was being used for transportation purposes, so the court only considered the first two factors. To satisfy the first factor, the vehicle does not have to actively cause the damages. Rather, the requirement is satisfied if the injury occurred because the vehicle’s use is actively connected with the injury. So long as the vehicle is being used as a motor vehicle during the time of injury, the vehicle is actively connected to the accident and subsequent injuries.

The second factor requires the insurer to show an act of independent significance occurred sufficient enough to break the causal connection between the occupancy and injury. That is, did evidence exist that an independent act or tortfeasor interceded to cause the injury. Minnesota Courts do not consider negligent actions to be acts of independent significance. To allow another driver's negligence to constitute an intervening act would seriously undermine the purpose and premise of UIM benefits, which is to provide the insured with financial protection against an underinsured motorist whose negligence results in injury.

Therefore, because the Plaintiff was an occupant of an insured vehicle being used as a motor vehicle at the time of impact and the insured vehicle was an active accessory to the injuries sustained, the Court of Appeals upheld the District Court's decision to award UIM coverage. This case is yet another example how the specific facts of each case determine whether or not an insured, or occupant of an insured vehicle, is entitled to benefits under the Minnesota No-Fault Act. These cases place a premium on accurate fact investigation early in the life of the claim.

We will follow this case in the event of an appeal to the Minnesota Supreme Court. If you have any questions regarding this case or other automobile related issues, please contact any member of our Motor Vehicle Practice Group at (952) 831-6544. This letter, and other Minnesota Appellate Court opinion updates, are now available in .pdf form on the News and Resources page of our Firm's website: www.johnson-condon.com.

Sincerely,

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