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NEWS & EVENTS

June 5, 2019

Brian Bassett and Phil Brandt Prevail On Appeal In Uninsured Motorist Coverage Dispute

Related Attorneys: Brian C. Bassett

On Friday, May 24, 2019, the Illinois Appellate Court, First District, affirmed a summary judgment ruling in favor of an insurance carrier that a police officer injured during a traffic stop was not “using” his police cruiser for liability coverage purposes, nor was he “occupying” the vehicle for uninsured motorist coverage. Traub Lieberman partner Brian Bassett represented the carrier in the circuit court and was assisted by associate Philip Brandt in the appellate court.

The plaintiff, a police officer for the City of Zion, filed a lawsuit against the carrier, which had issued a business auto policy to the municipality. During a traffic stop, the plaintiff parked his police cruiser behind another police cruiser at the scene in a manner to protect other officers already engaged in the traffic stop. The plaintiff exited his cruiser, passed the cruiser parked in front of him, and stood behind the stopped vehicle to serve as a cover officer. There, he noticed through the back window the suspect driver beginning to place the vehicle in gear. He ran toward the driver’s side of the stopped vehicle to pull the officer questioning the suspect driver out of the way. The driver struck the plaintiff as he drove off. When the Zion police apprehended the driver, they discovered the driver did not have insurance covering the vehicle. The plaintiff sought to recover under the carrier’s uninsured motorist provision, but was denied coverage because he was not “occupying” the police cruiser at the time he was injured as required to qualify as an insured under that provision.

The plaintiff argued, in part, that he qualified as a “user” of the police cruiser because he was “using” the police cruiser during the traffic stop to create a safety bubble or zone to shield him and others at the scene from both potential cars approaching from behind and also potential gunfire. The appellate court rejected this argument explaining that “use” of a motor vehicle for liability coverage purposes must be “rationally connected to the purpose of providing transportation or satisfying some other related need of the user.” The appellate court disagreed with plaintiff that using the cruiser as a shield was not a use connected to transportation or a related need.

The appellate court also rejected plaintiff’s argument that he was “occupying” the police cruiser during the traffic stop. The court explained that while it was questionable that the police officer had a “nexus” to the cruiser, he was not in “virtual contact” with the cruiser. In concluding there was no virtual contact, the appellate court considered that the plaintiff was 20-25 feet away from his cruiser at the time of his injuries and was out of the vehicle for approximately 30 seconds. As the plaintiff was unable to establish at least the “virtual contact” requirement to show he was “occupying” the police cruiser for uninsured motorist coverage purposes, the appellate court held that the circuit court properly granted summary judgment in favor of the carrier.

The decision is *Arrington v. Certain Underwriters At Lloyds, London, Subscribing to Policy No.: BGA 300036-02, 2019 IL App (1st) 182345-U*.

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