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Traub Lieberman's Greg Pennington Wins Summary Judgment Dismissing Claim for UIM Coverage

Related Attorneys: Gregory S. Pennington

On September 27, 2019, Traub Lieberman Straus & Shrewsberry LLP's Gregory S. Pennington secured summary judgment dismissing a claim for UIM coverage under their client's classic automobile policy. The claim at issue arose when the insured was struck by a car while he was crossing the street on foot. The insured sued the driver and owner of the car and settled that suit for the applicable auto policy limit. The insured then filed suit against his regular use auto insurer seeking to recover UIM coverage. Several months after filing suit against his regular use auto insurer, the insured amended his complaint to pursue UIM coverage from his classic auto insurer as well. The amended complaint was the first notice to the classic auto insurer of the accident, the underinsured status of the tortfeasor, and the settlement of the insured's claims against the tortfeasor.

In their motion for summary judgment, Greg argued successfully that under *Ferrante v. New Jersey Manufacturers Insurance Group*, 232 N.J. 460 (2018) and *Longworth v. Van Houten*, 223 N.J. Super. 174 (App. Div. 1988), the insured's failure to provide the required UIM notices to the classic auto insurer barred his claim for UIM coverage. In so doing, Greg convinced the court that the insured's failure to present any of the required notices to the classic auto insurer obviated the need to consider the insured's justification for failing to provide the notices or the potential prejudice to the classic auto insurer. Greg further established that the insured had failed to present any proof to demonstrate that his broker was acting as an agent of the classic auto insurer for purposes of receiving notice of the underlying accident, the underinsured status of the tortfeasor, or the settlement of the insured's claims against the tortfeasor.