

THOUGHT LEADERSHIP

News

FORT WORTH COURT OF APPEALS HOLDS DAMAGE TO RESIDENCE BY DRUNK DRIVER NOT COVERED BY UM/UIM POLICY

Newsbrief

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An uninsured/underinsured motorist policy does not cover damage to property other than an insured's automobile, the Texas Second Court of Appeals in Fort Worth confirmed last Thursday. In *Ibarra v. Progressive County Mut. Ins. Co.*, No. 02-010-00312-CV (Tex. App.—Fort Worth, Jan. 12, 2012), the court of appeals rejected the insured's argument that her policy covered her house after it was damaged by an underinsured driver, affirming the trial court's judgment.

The insurance claim at issue arose out of an accident where a drunk driver jumped a curb, struck the plaintiff's 1984 Cadillac, and crashed through the wall of the plaintiff's home. The Cadillac, worth \$2,000, was totaled. The home required reconstruction costing approximately \$50,000, as the accident detached the framing from the slab. The Plaintiff recovered policy limits from the driver in the amount of \$25,000, and sought the balance from her own Progressive auto policy.

The Plaintiff conceded the house was not covered by the express terms of her UM/UIM policy. She argued, however, the policy was improperly narrow in scope, and therefore violated the Texas Insurance Code. The court disagreed and concluded that the purpose of the UM/UIM statute is to protect motorists, and the plaintiff's contention the policy should cover all types of property damage was inconsistent with the relevant statutes and with prior court decisions.

The court reversed the trial court's judgment in part because Progressive's motion for summary judgment did not reference damage to the Plaintiff's Cadillac. The trial court, therefore, should not have granted final judgment on all claims.