

## COA Opinion: Insurer's motion for summary disposition on uninsured motorist claim was properly denied where plaintiff struck object on freeway that was inaccessible to non-vehicular traffic

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On April 6, 2010, the Court of Appeals published its opinion in *Dancey v. Travelers Property Casualty Company of America*, No. 288615. The Court affirmed the trial court's denial of the insurer's motion for summary disposition on plaintiff's claim to recover uninsured motorist benefits arising from plaintiff's collision with a ladder that was laying in a Detroit-area expressway. First, the Court found that there were factual questions as to whether this plaintiff and/or the vehicle involved in the accident were added as insureds to a particular business' automobile policy. Additionally, the Court addressed the legal question of whether, under these circumstances, the plaintiff could establish she was entitled to uninsured motorist benefits. Under the policy, an uninsured vehicle can be an unknown "hit-and-run" vehicle that hits, or "cause[s] an object to hit" an insured vehicle. In this case, plaintiff's vehicle struck a ladder that was laying in the expressway, and there was no direct evidence that the ladder came from a vehicle. After analyzing similar cases, the Court found that under these unique circumstances, where there was evidence that that the accident site was not accessible to pedestrians or other non-vehicular traffic, a jury could find a substantial physical nexus between a hit-and-run vehicle and the ladder struck by the plaintiff. Thus, the Court of Appeals found that summary disposition in favor of the insurer was not appropriate, and affirmed the trial court's denial of that motion.