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C A S E A L E R T

APPELLATE DIVISION RULES IN FAVOR OF M&W, APPLIES FERRANTE V. NJM TO BAR UNINSURED MOTORIST CLAIM FOR DESTRUCTION OF UM CARRIER'S SUBROGATION RIGHTS WITHOUT NEED FOR PREJUDICE ANALYSIS

Last week the Appellate Division accepted the argument of M&W's [Stephen Katzman](#), [Christian Baillie](#) and [Olivia Licata](#) to issue an unpublished but important decision which answered two unresolved questions in the wake of [Ferrante v. NJM](#), the Supreme Court decision that barred a UIM claim based on the claimant's failure to preserve the subrogation rights of the UIM carrier.

In [DiMaria v. Travelers](#), the Court expressly held that [Ferrante v. NJM](#)—which was a UIM case—applied to UM cases. More importantly, the court extended the holding of [Ferrante](#) beyond the unusual facts of that case. The [DiMaria](#) panel created a bright line rule, holding that when an insured files a UM or UIM claim after the two-year statute of limitations has expired,

the trial court should not engage in a prejudice analysis regarding the likelihood of subrogation success based on collectible assets. If the company's subrogation rights are "irretrievably lost" before the claim is even made, the UM or UIM claim is forfeited without regard to collectability.

For the New Jersey Law Journal's coverage of this important decision click [here](#).

For a copy of the decision itself click [here](#).

Contact [Stephen](#) or any of [our Partners](#) with any questions you may have about this important ruling.

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