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Lopez v. Farmers Tex. County Mut. Ins. Co.,
Insured's Subjective Understanding of UM Waiver Irrelevant If Language Is Clear

Lopez v. Farmers Tex. County Mut. Ins. Co., 2007 WL 703496 (Tex. App.—Texarkana March 9, 2007, n.p.h.)

Santos Lopez signed waivers of uninsured motorist coverage on four separate occasions between January 1998 and April 1999. However, because those waivers were in English, which Lopez does not speak or understand, and because no one explained the waivers to him, he argued that the waivers were invalid and sought underinsured motorist coverage under his policy. The trial court granted summary judgment in favor of Farmers and the court of appeals affirmed.

Lopez argued that Farmers needed to demonstrate his subjective understanding of the waiver based on an earlier supreme court holding requiring the insurer to demonstrate “that the insured has some knowledge of what he is rejecting” for a waiver of statutorily mandated coverage to be valid. The court of appeals held that, while the language of the waiver must be sufficiently clear and explicit to “objectively” communicate the effect of waiver, nothing in the statute required the insurer to demonstrate the insured’s subjective understanding of the waiver “by presenting evidence that the waiver form was translated into a language the insured would understand or that an otherwise explicit form was more fully explained to the insured.”