COURT OF APPEALS
DECISION
DATED AND RELEASED

November 19, 1996

NOTICE

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-2601

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

General Casualty Company of Wisconsin,

Defendant-Respondent,

v.

Cameron Gilbert and Eisenberg, Weigel, Carlson, Blau, Reitz & Clemens, S.C.,

Defendants-Appellants.

APPEAL from a judgment of the circuit court for Milwaukee County: JOHN J. DiMOTTO, Judge. *Affirmed*.

Before Wedemeyer, P.J., Schudson and Curley, JJ.

PER CURIAM. Cameron Gilbert and Eisenberg, Weigel, Carlson, Blau, Reitz & Clemens, S.C. ("law firm") appeal from a judgment entered after a jury found in favor of General Casualty Company of Wisconsin on its subrogation claim.

The law firm claims that: (1) the trial court erred in denying its motion for summary judgment on the basis that the law firm was not uninsured; (2) the trial court erred in not allowing the insurance question to be submitted to the jury; and (3) the judgment should be reversed in the interests of justice because the jurors evidenced bias in rendering the verdict. Because the trial court did not err in denying the law firm's motion seeking summary judgment, because the law firm waived the right to raise the second issue, and because the law firm's interests of justice issue is undeveloped, we affirm.

I. BACKGROUND

On December 29, 1992, an automobile collision occurred involving an employee of the law firm (Gilbert) and General Casualty's insured, Sam Minessale. Minessale filed a claim with General Casualty under the uninsured motorist provision of his automobile policy. General Casualty paid the claim and filed a complaint against the law firm seeking subrogation.

The law firm filed a motion for summary judgment arguing that because it was insured at the time of the accident, General Casualty was not obligated to pay the UM claim, and therefore must have paid "as a volunteer." Based on this argument, the law firm claims that General Casualty has no right to seek subrogation from it. The trial court denied the motion, ruling there were material issues of fact.

The case proceeded to trial. The trial court submitted to the jury a verdict on the issues of negligence and damages. The jury found that both drivers were negligent, but that the law firm's employee was 100% causally negligent.

The law firm failed to timely file motions after verdict. As a result, the trial court entered judgment on the verdict. The law firm now appeals.

II. DISCUSSION

The law firm first challenges the trial court's ruling on summary judgment. In reviewing a grant of summary judgment, we employ that same methodology as the trial court. ***Green Spring Farms v. Kersten***, 136 Wis.2d 304, 315, 401 N.W.2d 816, 820 (1987). This methodology has been so often repeated, we decline to do so here. Our review is *de novo*. ***Id.***

Applying this *de novo* standard of review, we conclude that the trial court's ruling was correct. The law firm claimed that it was insured at the time of the accident and, therefore, Minessale made an improper UM claim. The law firm argues that Minessale and his attorney knew that the law firm was insured and never made any attempt to make a claim against the law firm's insurer, but rather chose to seek UM benefits from General Casualty. General Casualty argues that the law firm deceived everyone into believing that it did not have insurance, and in fact, actually represented to the State of Wisconsin during the hearing with the Safety Responsibility Unit of the Wisconsin Department of Transportation that it did not have insurance. We agree with the trial court that under these circumstances, a material issue of fact existed as to whether General Casualty paid as a volunteer, depending on which party's version of the facts was believed.

The law firm next claims that the trial court erred in not allowing the issue of whether General Casualty paid the UM claim as a volunteer to go to the jury. We are not persuaded. We have reviewed the record, and conclude that the law firm waived the right to raise this issue on appeal for two reasons. First, the law firm never specifically asked the court to submit the issue to the jury, and never requested any jury instructions or verdict questions on this issue. See § 805.11, STATS. Second, it is undisputed that the law firm failed to timely file motions after verdict. If the law firm wanted to challenge the verdict—as a matter of right—it should have filed a timely motion after verdict. ***Rennick v. Fruehauf Corp.***, 82 Wis.2d 793, 808, 264 N.W.2d 264, 271 (1978). Although we may exercise our discretion to decide waived issues, *see* ***Brandner v. Allstate Insurance Co.***, 181 Wis.2d 1058, 1066-67, 512 N.W.2d 753, 758 (1994); ***Wirth v. Ehly***, 93 Wis.2d 433, 443-44, 287 N.W.2d 140, 145-46 (1980), we see no reason to do so here. Accordingly, we conclude that this issue was waived and decline to address it.

Finally, the law firm argues that the judgment should be reversed in the interests of justice because the verdict was inconsistent and the jurors

were "obviously" biased. We decline to address this argument as well because it is undeveloped. ***W.H. Pugh Coal Co. v. State***, 157 Wis.2d 620, 634, 460 N.W.2d 787, 792 (Ct. App. 1990) (an appellate court may decline to consider an issue that is undeveloped in the briefs or that is not supported by citation to legal authority).

By the Court. – Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.