

REL: 10/26/2007

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 242-4621), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2007-2008

2050488

State Farm Mutual Automobile Insurance Company

v.

Preston Mason

Appeal from Lawrence Circuit Court
(CV-03-68)

On Remand from the Alabama Supreme Court

PER CURIAM.

The Alabama Supreme Court has reversed this court's January 12, 2007, reversal of the trial court's judgment, and it has remanded the case to this court. Ex parte Mason, [Ms. 1060665, July 27, 2007] ___ So. 2d ___ (Ala. 2007). In

2050488

compliance with the Alabama Supreme Court's opinion, we now affirm the trial court's judgment insofar as that court concluded that Preston Mason's claim for uninsured-motorist-insurance benefits was not barred by his failure to bring it within two years of the occurrence of the motor-vehicle accident made the basis of his claim.

Because this court determined, on original submission of the appeal, that the trial court's judgment was due to be reversed in its entirety, we "pretermi[te]d] consideration of whether the trial court erred in failing to reduce the damages award in this case" to \$40,000, the aggregate monetary limit of the uninsured-motorist-insurance coverage of the two policies issued by State Farm Mutual Automobile Insurance Company to Mason's wife. ___ So. 2d at ___. That issue is now ripe for this court's consideration on remand from the Alabama Supreme Court, and consistent with the position espoused in the special writing issued by former Presiding Judge Crawley, we now "vacate the award of damages in the amount of \$40,968.30 and remand the cause to the trial court with instructions to reduce the award to the policy limits of

2050488

\$40,000." ___ So. 2d at ___ (Crawley, P.J., dissenting from the rationale and concurring in the judgment in part).

JUDGMENT AFFIRMED IN PART; JUDGMENT VACATED IN PART; AND REMANDED.

All the judges concur.