

IN THE COURT OF APPEALS OF IOWA

No. 1-037 / 10-1176
Filed February 23, 2011

BRYAN RUDE,
Plaintiff-Appellant,

vs.

**FARMERS AUTOMOBILE
INSURANCE ASSOCIATION,**
Defendant-Appellee.

Appeal from the Iowa District Court for Crawford County, Jeffrey A. Neary,
Judge.

Plaintiff appeals the district court's grant of summary judgment to
defendant on his claims based on uninsured motorist coverage. **AFFIRMED.**

Richard D. Crotty, Council Bluffs, for appellant.

Kermit B. Anderson of Finley, Alt, Smith, Scharnberg, Craig, Hilmes &
Gaffney, P.C., Des Moines, for appellee.

Considered by Vaitheswaran, P.J., Eisenhauer, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

MAHAN, S.J.

Bryan Rude was struck by an uninsured motorist while walking to his vehicle after work, and he entered into a workers' compensation compromise settlement with his employer under Iowa Code section 85.35(3) (2009). Rude subsequently filed a petition for declaratory judgment against his insurer, Farmers Automobile Insurance Association, seeking coverage under the uninsured motorist provisions. The district court granted summary judgment to Farmers, finding that under the policy any amounts payable would be reduced by all sums paid due to bodily injury under workers' compensation law. The court concluded Farmers could offset its payment by the total received in the settlement, and in this case, "Rude received more from the settlement than the maximum liability of his insurer; therefore, he is not entitled to declaratory relief." *See Greenfield v. Cincinnati Ins. Co.*, 737 N.W.2d 112, 118-21 (Iowa 2007) (noting "[a]ny recovery from a third party is 'duplicative' in the context of uninsured motorist coverage"). We find no error in the district court decision and affirm.

AFFIRMED.