

**FILED**

**November 16, 2012**  
**RORY L. PERRY II, CLERK**  
**SUPREME COURT OF APPEALS**  
**OF WEST VIRGINIA**

Ketchum, Chief Justice, with whom Judge Keadle joins, dissenting:

The Plaintiffs purchased and paid a premium for medical payments insurance coverage from State Farm. They also purchased and paid a separate premium for underinsured motorist coverage. These two coverages were contained in their State Farm automobile insurance policy. The majority opinion holds that State Farm can reduce the Plaintiffs’ personal injury damages payable under the underinsured coverage by the amount they received under the medical payments coverage.

This reduction by the majority opinion is contrary to the plain language of West Virginia’s underinsured motorist statute. It states, “No sums payable as a result of underinsured motorists’ coverage shall be reduced by payments made under the insured’s policy or any other policy.” *W.Va. Code*, 33-6-31(b) [1998].

I respectfully dissent to the majority’s opinion. I am authorized to state that Judge Keadle joins in this dissent.