

No. 33091 *Daniel S. Strahin v. Earl Sullivan and Farmers & Mechanics Mutual Insurance Company*

FILED

July 25, 2007

released at 10:00 a.m.

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

Benjamin, Justice, concurring:

In order to establish a claim pursuant to *Shamblin v. Nationwide Mutual Insurance Company*, 183 W. Va. 585, 396 S.E.2d 766 (1990), an insured must be exposed to personal liability for a jury verdict in excess of his or her liability insurance policy limits due to the insurer's unreasonable failure to settle within policy limits prior to the rendering of a jury's verdict. By extinguishing an insured's potential personal liability for an excess verdict prior to the rendering of such a verdict, the parties also extinguish any *Shamblin* claim which may have potentially existed. It is just that simple.