

# HANDLING UNINSURED & UNDERINSURED MOTORIST CLAIMS

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## TWO WAYS TO BRING THESE CLAIMS

- DECLARATORY JUDGMENT ACTION
- 541 STAND-ALONE CLAIM



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## TWO WAYS TO BRING THESE CLAIMS

*IN RE STATE FARM MUT. AUTO. INS. CO.,* (Tex.2021)

2 SEPARATE CASES AGAINST STATE FARM

- NICASTRO: NO OFFER AND NO EXPLANATION
- DODDS: PRE-SUIT THERE WAS NO OFFER & NO EXPLANATION.
  - DURING LITIGATION, IMPASS PAYMENT OF \$18,190.40 & NO EXPLANATION



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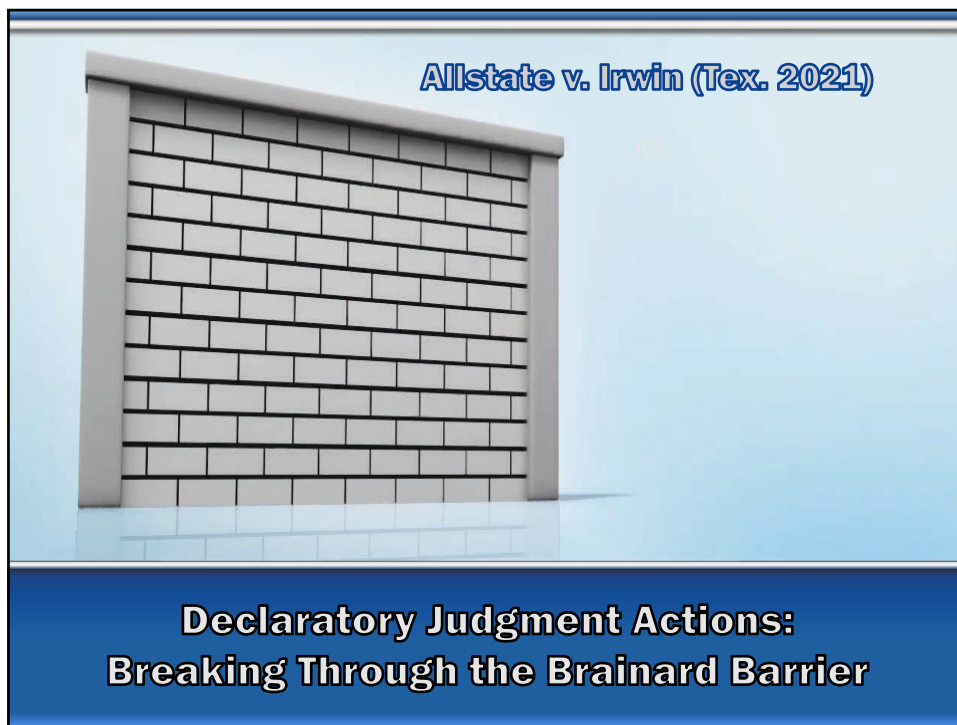
## TWO WAYS TO BRING THESE CLAIMS

*IN RE STATE FARM MUT. AUTO. INS. CO.,* (Tex.2021)

- CASE WENT TO THE SUPREME COURT.
- COURT RECOGNIZED THE 541 STAND-ALONE CAUSE OF ACTION.
- THE CLAIMS HAVE TO BE BIFURCATED.
- FIRST CASE THAT GAVE US A ROUTE TO RECOVER ATTORNEY'S FEES.



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Breaking Through the Brainard Barrier  
Allstate v. Irwin (Tex. 2021)

The Declaratory Judgment Statute allows you to bring a claim:

- BEFORE or after a breach;
- To Declare the rights;
- To terminate the controversy;
- Section 37.009 Allows for the recovery of “reasonable and necessary attorney’s fees” as are “just and equitable.”

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Title search: Handling Uninsured & Underinsured Motorist Claims

Also available as part of the eCourse

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First appeared as part of the conference materials for the  
2023 The Car Crash Seminar session

"Important Cases in the Prosecution and Defense of UM / UIM Cases"