

**WISCONSIN COURT OF APPEALS**  
**District IV**

December 20, 2018, 1:30 p.m.  
Branch 2 Courtroom  
La Crosse County Courthouse and Law Enforcement Center  
333 Vine St., La Crosse, Wisconsin

*The Wisconsin Court of Appeals is the state's intermediate appellate court and is divided into four districts. Its primary role is to correct errors that may have occurred at the trial court level. The Court of Appeals often decides cases on briefs but hears oral argument when it would be beneficial to the judicial decision-making process. The three-judge panel hearing this case consists of Judge Gary E. Sherman, Judge Brian W. Blanchard, and Judge Michael R. Fitzpatrick. Argument is taken under advisement, and a decision will be rendered at a later date. Published opinions of the Court of Appeals establish precedent, unless overruled by the Wisconsin Supreme Court.*

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[Wagner v. Allstate, et al.](#)

In April 2015, an automobile driven by Trisha Stratman collided with an automobile driven by Melinda Wagner. About seven months later, Ms. Wagner filed a voluntary petition for a Chapter 7 bankruptcy in the United States Bankruptcy Court for the Western District of Wisconsin. In March 2016, the Bankruptcy Court discharged Ms. Wagner's debts and the bankruptcy case was closed.

In November 2016, Ms. Wagner sued Ms. Stratman in the LaCrosse County Circuit Court, alleging that Ms. Stratman was negligent and caused the April 2015 automobile collision and injuries to Ms. Wagner. Ms. Wagner also sued Ms. Stratman's insurer, Allstate. Ms. Wagner sued her own underinsurer, Acuity, claiming that the amount of Ms. Stratman's insurance coverage with Allstate was insufficient to cover all her damages.

Ms. Stratman, Allstate, and Acuity filed motions for summary judgment, requesting that Ms. Wagner's personal injury lawsuit be dismissed because Ms. Wagner was required to, and did not, disclose her personal injury claim against Ms. Stratman in the bankruptcy case. The motions for summary judgment were granted by the La Crosse County Circuit Court, Judge Ramona A. Gonzalez, presiding. Ms. Wagner's lawsuit was dismissed. Ms. Wagner now appeals from that decision of the circuit court.

Argument is expected to address the following topics:

1. Potential implications of Lakewood Credit Union v. Goodrich, 2016 WI App 77, ¶15, 372 Wis. 2d 84, 877 N.W.2d 342 (pre-bankruptcy potential causes of action that the debtor fails to schedule as claims in the bankruptcy petition remain the property of the bankruptcy estate upon the bankruptcy's closure unless the claims have been abandoned by the trustee under 11 U.S.C. §554; when a debtor later brings a cause of action based on an undisclosed claim that has not been abandoned, the debtor is an interloper trying to prosecute a claim that belongs to the bankruptcy estate).
2. Whether Melinda Wagner's exemption for her personal injury claim recognized in the Wisconsin Statutes and federal law belongs to the bankruptcy trustee who filed the complaint on behalf of the Bankruptcy Estate of Melinda L. Wagner in La Crosse County Case No. 2018CV116 unless the United States Bankruptcy Court for the Western District of Wisconsin orders otherwise.