

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHANNON MOFFITT-ALI,	§	
	§	No. 215, 2016
Plaintiff Below,	§	
Appellant,	§	
	§	Court Below:
v.	§	
	§	Superior Court of the
STATE FARM MUTUAL	§	State of Delaware
AUTOMOBILE INSURANCE	§	
COMPANY, a foreign corporation,	§	C.A. No. N14C-04-117
JAVONA Y. MOFFITT-ALI,	§	
	§	
Defendants Below,	§	
Appellees.	§	

Submitted: November 2, 2016

Decided: November 9, 2016

Before **STRINE**, Chief Justice, **HOLLAND** and **VALIHURA**, Justices.

ORDER

This 9th day of November 2016, the Court, having considered this matter on the briefs of the parties, has concluded that the same should be affirmed on the basis of and for the reasons assigned by the Superior Court in its decision of March 31, 2016.¹

¹ On appeal, Moffitt-Ali argues that the Superior Court erred in determining the issue of whether underinsured motorist coverage was triggered pursuant to 18 *Del. C.* §3902(b)(2) without making a factual determination as to whether the two drivers involved in the collision in which she was injured were tortfeasors. The parties stipulated after oral argument on State Farm's motion for summary judgment that "the only remaining issue will be the legality of the [d]efendant State Farm's legal argument set forth in prior pleadings." Stipulated Order, *Moffitt-Ali v. State Farm Mut. Auto. Ins. Co.*, No. N14C-04-117 (Del. Super. Jan. 13, 2016). Accordingly, Moffitt-Ali's argument that an issue of fact remained is waived for the purpose of appeal. See Del. Supr. Ct. R. 8. Because Moffitt-Ali has neither argued nor demonstrated plain error on the part of the Superior Court, we decline to consider the argument for the first time on appeal.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice