FOURTH DIVISION
MCFADDEN, P. J.,
WATKINS and PADGETT, JJ.

NOTICE: Motions for reconsideration must be physically received in our clerk's office within ten days of the date of decision to be deemed timely filed.
https://www.gaappeals.gov/rules

September 16, 2026

In the Court of Appeals of Georgia

A26A1623. ISAAC WOODS et al. v. ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY.

PADGETT, Judge.

Isaac and Sharon Woods appeal from the trial court's dismissal of their action against Allstate Property and Casualty Insurance Company ("Allstate") for breach of contract, bad faith, and other claims, all arising out of a motor vehicle accident involving an uninsured motorist and Allstate's failure to pay uninsured motorist benefits. For the reasons that follow, we affirm.

A trial court may dismiss a complaint under OCGA § 9-11-12(b)(6) for failure to state a claim where

> (1) the allegations of the complaint disclose with certainty that the claimant would not be entitled to relief under any state of provable facts asserted in support thereof; and (2) the movant establishes that the

> claimant could not possibly introduce evidence within the framework of the complaint sufficient to warrant a grant of the relief sought.

Anderson v. Flake, 267 Ga. 498, 501(2) (480 SE2d 10) (1997) (punctuation omitted). This Court reviews a trial court's ruling on a motion to dismiss for failure to state a claim de novo, viewing all well-pleaded allegations in the complaint as true, construing the pleadings in the light most favorable to the plaintiff, and resolving any doubts in the plaintiff's favor. *Blau v. Ga. Dep't of Corr.*, 364 Ga. App. 1, 2 (873 SE2d 464) (2022). However, "[w]hile we view as true all well-pleaded material allegations in the complaint, we are under no obligation to adopt a party's legal conclusions based on these facts." *Appeal, Inc. v. Oliver*, 379 Ga. App. 73, 74 (928 SE2d 199) (2026) (punctuation omitted).

So viewed, the allegations of the complaint show that on March 26, 2021, Isaac Woods was driving a Nissan Maxima with Sharon Woods as a passenger, when their Maxima was rear-ended by a Honda Civic being driven by Karla Garcia. The Woodses sued Garcia and her parents for negligence on March 25, 2023,[1] and on or about August 2, 2024, the Woodses mailed a copy of the summons and complaint in that suit to Allstate, with whom the Woodses allege they had a "valid … insurance

[1] The Woodses claimed that Garcia's parents, Carlos E. Garcia-Camacho and Patricia Garcia-Jacobo, were liable as a result of their negligent entrustment of the Honda Civic to Garcia.

agreement."[2] However, on November 20, 2024, the trial court in that action dismissed Garcia and her parents without prejudice, but "allowed the case to remain active for resolution of [the Woodses'] claims against the uninsured motorist (i.e. Defendant[ ] Allstate)."

After that dismissal, on February 5, 2025, the Woodses sent an uninsured motorist settlement demand to Allstate containing their medical records and bills, to which Allstate responded, indicating that it would review and evaluate the demand. A little over one month later, Allstate made a counteroffer in response to the Woodses' demand.

The Woodses then filed this action against Allstate on May 13, 2025, asserting claims for breach of contract, breach of the implied covenant of good faith and fair dealing, bad faith, and unfair trade practices, all of which premised Allstate's liability on its failure to pay the Woodses pursuant to their uninsured motorist coverage. Allstate moved to dismiss the complaint for failure to state a claim, arguing that the Woodses failed to satisfy the condition precedent to recovery of uninsured motorist

---

[2] The Woodses do not allege in their complaint that their insurance agreement with Allstate includes uninsured motorist coverage, but they do allege that in response to serving Allstate with the summons and complaint in the underlying tort action, Allstate initiated an uninsured motorist claim. Thus, construing the complaint in favor of the Woodses, we treat Allstate as the Woodses' uninsured motorist carrier.

benefits under OCGA § 33-7-11(a)—namely, a judgment against the uninsured motorist that found the tortfeasor liable for the Woodses' damages. The trial court granted the motion after a hearing, and this appeal followed.

1. In overlapping enumerations of error, the Woodses claim that the trial court erred in "requiring a judgment against an uninsured motorist as a condition precedent" to an uninsured motorist carrier's duty to pay an uninsured motorist's contractual claim, and by inappropriately resolving the "factual matter[ ]" of the absence of a judgment against the uninsured motorist at the pleading stage. More specifically, the Woodses argue that they need not obtain a judgment against the uninsured tortfeasor in order to state a claim for breach of contract against their uninsured motorist carrier ("UMC") because—according to them—under the Uninsured Motorist Act, OCGA § 33-7-11, the UMC has a duty to evaluate and pay a valid uninsured motorist claim within 60 days of the insured's demand. Their enumerations of error are without merit.

Under Georgia's Uninsured Motorist Act,[3] "it is well settled that an injured party first must establish that the driver of the uninsured vehicle is legally liable to

---

[3] The Uninsured Motorist Act, OCGA § 33-7-11, "prescribes rules under which insureds ... [may] assert claims arising from accidents involving an uninsured motor vehicle and provides for subrogation when [uninsured motorist] carriers have paid such claims." *Blazys v. McKnight*, 377 Ga. App. 9, 13(1)(b) (921 SE2d 463) (2025). Under the statute, the insured may file an action against the at-fault driver

him or her for the accident before recovery is allowed under uninsured motorist coverage." *Morton v. Horace Mann Ins. Co.*, 282 Ga. App. 734, 738(2)(b) (639 SE2d 352) (2006) (citing OCGA § 33-7-11(a)(1)). Indeed, where the injured party seeks to recover uninsured motorist benefits under a contract of insurance with his or her UMC, liability in the underlying motor vehicle accident "ha[s] to be litigated prior to litigating the … contract claim." Id. And where an injured party also asserts a claim for bad faith against his or her UMC, such a claim must be filed in a separate action after the injured party has obtained a judgment against the uninsured tortfeasor. See OCGA § 33-7-11(j). Thus, regardless of how an injured party characterizes his or her claims against a UMC, where that party seeks uninsured motor benefits under the contract of insurance with the UMC and/or bad faith penalties or any other recovery based on the UMC's failure to pay those benefits, it is "a condition precedent to *an action* against an uninsured motorist carrier that suit shall have been brought and judgment recovered against the uninsured motorist." *Ferguson v. Spraggins*, 371 Ga.

---

and where a reasonable belief exists that the at-fault driver's vehicle is uninsured, "the … claimant must serve the insurer with a copy of the action and all pleadings." *Curry v. Allstate Prop. & Cas. Ins. Co.*, 363 Ga. App. 409, 411(1) (870 SE2d 808) (2022) (citing OCGA § 33-7-11(d)). Once the UMC is served, it may elect to proceed in its own name or in the name of the uninsured motorist, and where the UMC elects the former, "it has the right to contest both the liability of the alleged tortfeasor and any [contractual] liability under the policy," and where it elects the latter, "it may then litigate its contract disputes separately in any 'action allowable by law.'" *Blazys*, 377 Ga. App. at 15–16(1)(c) (punctuation omitted)).

App. 727, 729 n.2 (902 SE2d 708) (2024) (citation modified). See also *Ward v. Allstate Ins. Co.*, 265 Ga. App. 603, 603–04 (595 SE2d 97) (2004) ("Generally, the insured's right to recover under an uninsured motorist policy is established by obtaining a judgment against the uninsured motorist, thus showing that the insured is legally entitled to recover those damages." (punctuation omitted)); *Allstate Ins. Co. v. McCall*, 166 Ga. App. 833, 833–34 (305 SE2d 413) (1983), aff'd 251 Ga. 869 (310 SE2d 513) (1984) ("This [C]ourt has interpreted the Uninsured Motorist Act to require, as a condition precedent to *a suit* against the insurance carrier, that the insured first sue and recover a judgment against the uninsured motorist," as "liability for damages should be ascertained in an appropriate forum before the bringing of a suit against the insurance company under such coverage." (citation modified)). Stated otherwise, unless and until the insured has secured a judgment against the uninsured motorist showing that he is legally entitled to recover from the uninsured motorist, "the insured has no claim against his uninsured motorist carrier [for uninsured motorist benefits]." *Ward*, 265 Ga. App. at 604. See also *Hayward v. Retention Alternatives Ltd.*, 291 Ga. App. 232, 233(1) (661 SE2d 862) (2008) ("financial liability" of UMC to an insured claimant for damages caused by an uninsured motorist "does not arise until the claimant obtains a judgment against the uninsured tortfeasor"); *Yarbrough v. Dickinson*, 183 Ga. App. 489, 490 (359 SE2d

235) (1987) (noting that an insured's contractual claim against his or her UMC is "contingent on judgment being obtained against the tortfeasor").

The Woodses concede in their briefing that their bad faith claim against Allstate requires a judgment against the uninsured tortfeasor as a condition precedent to asserting such a claim, but argue that their "claim for breach of contract and related causes of action" are exempt from this well-settled requirement.[4] Relying on the Supreme Court of Georgia's decision in *Lewis v. Cherokee Ins. Co.*, 258 Ga. 839 (375 SE2d 850) (1989), they argue that their allegations of: (a) injuries arising from a collision with an uninsured motorist; (b) a demand for payment to their UMC; (c) and their UMC's failure to pay the amount they demanded, are alone "sufficient to state a claim for breach of contract and related causes of action[.]" The Woodses' argument is inconsistent with Georgia law.

Contrary to their argument, we have long held that under OCGA § 33-7-11(j), "[a] demand for payment and refusal by the insurer [to pay the amount of the demand] prior to trial on the tort liability of the uninsured motorist does not eliminate the requirement that a judgment first be obtained against the uninsured

[4] Although at one point in their briefing, the Woodses similarly concede that the requirement of securing a judgment against the uninsured tortfeasor is a condition precedent to a contract-based action "to recover under the uninsured motorist policy itself."

motorist as a condition precedent to suit against the insurer." *McCall*, 166 Ga. App. at 834. Indeed, "an insurer has no duty to accept an insured's demand for payment of a claim [under the policy's uninsured motorist coverage] prior to judgment being entered against an uninsured motorist." Id. Thus, the Woodses fundamentally misunderstand and misstate the functional effect of the Supreme Court's decision in *Lewis*. As this Court explained decades ago in *State Farm Mut. Auto. Ins. Co. v. Lorenz*, 202 Ga. App. 123 (413 SE2d 782) (1991):

> The issue addressed by the Supreme Court in *Lewis* … was whether an insured could make a valid demand for payment of uninsured motorist benefits within the contemplation of OCGA § 33-7-11(j), so as to start the running of the 60-day period, without first obtaining a judgment against the uninsured motorist. The Supreme Court answered this question in the affirmative, stating: "It is clear that a plaintiff must obtain a judgment against the uninsured motorist before *filing suit* against an insurer for [here,] the bad-faith penalty and attorney fees. However, it does not follow that a judgment against the uninsured motorist is a prerequisite for a *demand* against an insurer under this section." It is thus clear that the Supreme Court did not intend in *Lewis* to change the long-established rule that "[i]t is a condition precedent to an action against an automobile liability insurance carrier to recover under the provisions of OCGA § 33-7-11 on account of injuries and damages to the plaintiff resulting from the negligence of a known uninsured motorist, that suit shall have been brought and judgment recovered against the uninsured motorist."

Id. at 124(1) (citation omitted). Stated otherwise, a demand for payment under a policy's uninsured motorist coverage simply triggers the 60-day bad faith clock under OCGA § 33-7-11(j), such that in the event the insured secures an applicable judgment against the uninsured motorist—thereby establishing the UMC's contractual liability—the insured may file a separate action in which the question of bad faith is addressed. See *Lewis*, 258 Ga. at 841–42. A demand for payment in no way vitiates the requirement that the uninsured motorist's tort liability be established by way of judgment "before a UMC can be held accountable on its contractual obligation to its insured." *Smith v. Phillips*, 172 Ga App. 459, 460(1) (323 SE2d 669) (1984).[5]

Thus, whether denominated as contract-based, bad faith, or deceptive trade practices, the central element to each claim in this case is Allstate's alleged duty to pay, which, under longstanding Georgia law, can only be established by an antecedent

[5] The statute's 60-day period for paying a valid claim and its potential for a bad faith penalty simply incentivizes both good, efficient practices in handling uninsured motorist claims, and judicial economy. Where an insured makes a prejudgment claim and the uninsured driver's liability is clear or even arguable, the UMC may foreclose the potential for a bad faith penalty by paying the claim and becoming subrogated to the rights of the insured, pending the outcome of the insured's tort action against the uninsured motorist. See OCGA § 33-7-11(f). Conversely, should the UMC choose not to pay an insured's prejudgment demand and the insured's judgment against the uninsured motorist establishes the validity of his demand, the UMC risks additional liability, determined in a subsequent suit, for bad faith and attorney fees. See OCGA § 33-7-11(j). The latter subsection does not, itself, create a cause of action for breach of contract or breach of any implied covenant of good faith and fair dealing.

judgment finding the uninsured motorist responsible for the Woodses' damages. And where, as here, it appears from the face of the complaint that this condition precedent to bringing the suit has not been satisfied, the complaint is properly dismissed for failure to state a claim. See *Potts v. Levenson*, 377 Ga. App. 833, 839(2) (923 SE2d 107) (2026) (affirming dismissal where condition precedent not satisfied and where termination of underlying proceeding was required before bringing the present suit); *Hall v. City of Blakely*, 361 Ga. App. 135, 138 (863 SE2d 393) (2021) (affirming dismissal where plaintiff's complaint and exhibits thereto failed to establish, on their face, that plaintiff satisfied condition precedent to bringing suit); *Slone v. Myers*, 288 Ga. App. 8, 10–11(2) (653 SE2d 323) (2007) (affirming dismissal based on failure to satisfy condition precedent to maintaining action for abusive litigation, even though plaintiffs characterized their claims otherwise), overruled on other grounds by *Reeves v. Upson Regional Med. Ctr.*, 315 Ga. App. 582 (726 SE2d 544) (2012).[6] See also *Brown v. State Farm Mut. Auto. Ins. Co.*, 242 Ga. App. 313, 315(2) (529 SE2d 439) (2000) (where action against uninsured motorist tortfeasor is properly subject to dismissal

[6] The Woodses nonetheless assert in their brief that failure to satisfy the condition precedent of a judgment against the uninsured tortfeasor "does not operate at the pleading stage to defeat a complaint's sufficiency[,]" citing *McCrary v. Preferred Risk Mut. Ins. Co.*, 198 Ga. App. 727 (402 SE2d 519) (1991). Our decision in *McCrary* stands for no such proposition and the Woodses' position on this point, under the facts of this case, provides no basis for reversal.

and insured has not reduced his or her claim against the tortfeasor to a judgment, suit against the UMC is likewise subject to dismissal).

2. Finally, the Woodses assert, without citation to the trial court's ruling, that the trial court erred "in dismissing based on [their] alleged failure to pursue service [on Garcia] by publication." Their contention is without merit.

The trial court dismissed the Woodses' complaint based upon their failure to satisfy the condition precedent to bringing suit: a judgment against an uninsured motorist tortfeasor. Any reference by the trial court to efforts or lack thereof by the Woodses to serve Garcia by publication in the underlying tort action did not provide the basis for the trial court's ruling.[7] Because we are a court of review, "issues which have not been ruled on by the trial court may not be raised on appeal," and we therefore decline to further address this claim of error. *Clanton v. Taylor*, 370 Ga. App. 383, 386(1) (897 SE2d 515) (2024).

Judgment affirmed. McFadden, P. J., and Watkins, J., concur.

---

[7] Any reference by the trial court to whether the Woodses attempted to serve Garcia by publication in the underlying tort action or whether the statute of limitation had expired in that action was not necessary to its holding that the Woodses' failure to satisfy the condition precedent to this action—an antecedent judgment against the uninsured tortfeasor—required dismissal of the present action. Moreover, the Woodses' citation to an order and a notice related to service by publication in the underlying tort action, both dated September 2023, cannot overcome the unambiguous allegation in their Complaint that their tort action against Garcia and her parents was subsequently dismissed on November 20, 2024.