Editor's comment on *American Family Mut. Ins. Co. v. Krop*, 2018 IL 122556 (October 18, 2018).

The Illinois Supreme Court's decision in *American Family Mut. Ins. Co. v. Krop*, 2018 IL 122556 (October 18, 2018), is a significant but flawed decision in connection with the statute of limitations (735 ILCS 5/13-214.4) on claims against insurance producers for selling inadequate policies. In *Krop*, the court's majority held that, when a customer has the opportunity to read his insurance policy and can reasonably be expected to understand its terms, the cause of action for failure to procure insurance that meets the customer's request accrues as soon as the customer receives the policy, even though the event for which the insurance company denies coverage occurs after the limitations period has expired. The discovery rule does not apply when the customer has the opportunity to read the policy and can reasonably be expected to understand it. According to the majority, treating the accrual of the cause of action as the date of the insurance producer's breach, is consistent with accrual principles for contract actions and for torts arising out of contractual relationships. The insured is obligated to read his policy to determine whether it conforms to his expectations, and this obligation applies regardless whether he is dealing with a captive agent or an insurance broker. Under the majority's opinion in *Krop*, the discovery rule should extend the limitations period only in "exceptional circumstances" where the insured cannot reasonably be expected to understand the extent of coverage by reading the policy.

In her dissent, Justice Theis, joined by Justice Kilbride, criticized the majority for relying on contract principles for accrual of the insured's cause of action, especially when the insured's claim was pleaded in negligence and when the majority never identified the contract from which the insured's cause of action arose. The statute regarding insurance producer liability imposes *negligence* liability, requiring the producer to "exercise ordinary care and skill" in placing the coverage requested by the insured. 735 ILCS 5/2-2201. Under tort principles, the cause of action against the producer does not accrue until the insured suffers injury—the denial of coverage by the insurance company. For tort purposes, the insured has not suffered injury merely by receiving a deficient policy that will not cover the unknown future event that would have been covered by the requested policy. If there was any damage upon delivery of the defective policy, it was at best only an economic loss not recoverable in tort under *Moorman*. The majority opinion converts section 13-214.4 into a two-year statute of repose and improperly reads into section 2-2201 contract principles when it speaks only in terms of the producer's liability in negligence.