



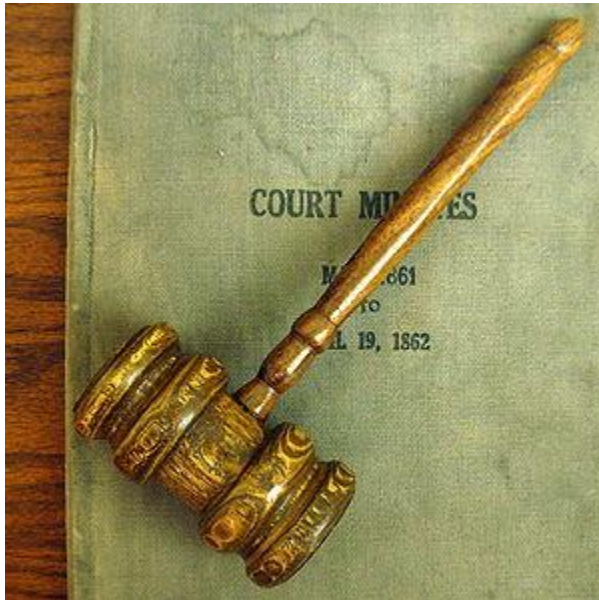
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Illinois Court on Distribution of Underinsured-Motorist Proceeds

Written by Admin - BN on February 9th, 2012



Sometimes, in the aftermath of a tragic car accident, it is discovered that one of the vehicles involved in the accident was carrying little or no automobile insurance. When that happens, automobile passengers injured in the accident can sometimes seek to recover underinsured-motorist proceeds from their own insurer in order to receive sufficient compensation for their injuries.

In *Columbia Mutual Insurance Company v. Herrin*, No. 5–10–0037, the Appellate Court of Illinois was faced with that situation and was tasked with assessing the amounts of underinsured-motorist proceeds that each person injured in an accident could recover from their respective insurance company.

The automobile accident in this case was extremely tragic. 3 teenage boys who were not related to one another were passengers in a car driven by one of the boy's mothers when they were hit by a truck after the driver of the truck failed to stop at an intersection. One of the teenage boys was killed and the other 3 people in the car were seriously injured.

The driver of the truck carried only \$100,000 of insurance, so each passenger sought to recover from their own underinsured motorist proceeds in addition to the underinsured-motorist proceeds of the host vehicle that was involved in the accident. After a thorough analysis of applicable law and case precedent, the Court concluded that

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apportionment of the host vehicle insurance proceeds could only occur after the individual policies' proceeds were calculated:

Here, as in *Janes*, the trial court erred in applying a ratio method without considering the amounts of underinsured-motorist coverage which the occupants of the Duncan vehicle had available exclusively to them before dividing up the host vehicle's underinsured-motorist coverage provided by the Encompass policy. Janes requires a court to take into account the presence of separate underinsured-motorist coverage exclusive to individual passengers and give each passenger credit with the amount of underinsured-motorist benefits available exclusively to them. Therefore, we reverse that portion of the trial court's order which apportioned the Encompass policy between the occupants of the host vehicle and remand with directions that when determining the apportionment of an \$800,000 pool of host vehicle underinsured-motorist coverage available through Encompass, the trial court give credit for the underinsured-motorist coverage available exclusively to the estate of Michael Herrin.

Thus the Court's primary focus was on ensuring that each passenger was fairly and accurately compensated for their injuries and thus received an appropriate ratio of the proceeds available. While not an easy decision and one that was complicated by the large number of insurance policies triggered by this accident, the end decision was an equitable one that ensured that each person affect by this horrible [car accident](#) received just compensation.

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