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LAW FIRM

Limitation on Uninsured/Underinsured Insurance Coverage Stacking in Illinois

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"Stacking" is a practice that permits a party injured in a car accident, after recovering any available insurance policy proceeds from the party responsible for the accident (which failed to fully compensate him for his damages), to seek recovery from his insurer based on the cumulative uninsured/underinsured coverage limits in his multi-vehicle insurance policy.

Illinois courts have found that stacking can be appropriate when an insurance policy is ambiguous concerning the uninsured/underinsured coverage that it provides. This ambiguity normally occurs when the policy's declarations page lists such coverage for several vehicles, each with separately listed uninsured/underinsured coverage limits and premiums. *See Johnson v. Davis*, 377 Ill.App.3d 602 (5th Dist. 2007).

Like normal contract interpretation, insurance policy terms are to be applied as written unless the policy language is ambiguous or against public policy. A policy's terms are deemed ambiguous when the policy language is subject to more than one reasonable interpretation. *Hobbs v. Hartford Ins. Co. of the Midwest*, 214 Ill.2d 11, 17 (2005). Ambiguous policy terms that purport to limit an insurer's liability are liberally construed in the insured's favor. *Id*. Whether the terms of an insurance policy allow the stacking of uninsured/underinsured coverage is a question of law. *Id*.

In the recent case of *Hanson v. Lumley Trucking, LLC*, the plaintiff, who was injured in a car accident and settled with the responsible party for that party's liability limits, filed a declaratory judgment action seeking to establish that he was entitled to underinsured motorist (UIM) coverage based on the cumulative amount of coverage provided to all vehicles under his policy. 403 Ill.App.3d 445 (5th Dist. 2010). Specifically, the plaintiff argued that his policy provided $40,000 in UIM coverage limits for each of the 25 vehicles covered by the policy, thereby providing total UIM coverage of $1 million.

After the defendants filed a motion for judgment on the pleadings, the court held the policy was unambiguous and that stacking would not be permitted. The court reached this conclusion based on the fact that the declarations page for the plaintiff's policy contained only a single line setting forth the amount of UIM coverage available ($40,000), did not separately list the UIM coverage limits for each covered vehicle, and contained an anti-stacking provision limiting such coverage to $40,000.

The plaintiff argued that he was entitled to stack the UIM coverage because the single line on the declarations page, which set forth the amount of UIM coverage available, was cross-referenced to the 25 vehicles covered under the policy, and because there were separate premiums for uninsured/underinsured coverage listed for each of the 25 vehicles. However, the court relied on prior cases that held the mere listing of premium amounts for uninsured/underinsured coverage was insufficient to allow stacking. *See Bruder v. Country Mut. Ins. Co.,* 156 Ill.2d 179 (1993); *Prudential Prop. & Cas. Ins. Co. v. Kelly,* 352 Ill.App.3d 873 (2004). The court also found the cross-reference to the 25 covered vehicles was not an invitation to stack the UIM coverage and that the only reasonable interpretation of the policy was that the UIM coverage provision, which was listed in a single line with a single identification of a single amount of coverage, provided a maximum coverage amount of $40,000 for any one accident.

Based on the *Hanson* decision, an insurance company issuing policies in Illinois can protect itself from the stacking of uninsured/underinsured coverage limits by including an anti-stacking clause in the policy and by listing the uninsured/underinsured coverage limit only once on the declarations page (not listing such coverage limit for each vehicle covered) and, to be safe, not listing the premium attributable to each vehicle for such coverage.