

Automobile Accident Cases: Determine All Sources of Insurance Coverage

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Without an adequate source of recovery, it does not matter how good your automobile injury case otherwise appears. Since all a trial lawyer can do for injured persons is recover money, it must be determined at the outset if there is a source from which to obtain such funds. The quest for insurance coverage can be confusing and complex, but it is an essential task for a trial lawyer in order to maximize his or her client's recovery.

In automobile injury cases, the trial lawyer must determine the existence and extent of the tortfeasor's liability coverage, uninsured motorist coverage, underinsured motorist coverage, medical payment coverage, and loss of income coverage. This inquiry typically requires examination of several automobile insurance policies: (1) those covering the vehicles involved in the collision; (2) those covering the vehicles owned by the drivers (and their relatives) involved in the collision; (3) those covering the vehicles owned by the client and the client's relatives living in the same household with the client; and (4) any umbrella or excess policies that the drivers and the client (and their relatives) may have.

In Virginia, as a general rule, there is no stacking of liability coverages, whether multiple vehicles are on the same policy or on separate policies. However, sometimes there exists more than one liability policy affording coverage for an injured party. Consider the following example:

Alan's car is insured with Company A. Bill's car is insured with Company B. Alan, driving Bill's car with Bill's permission, injures Plaintiff. Plaintiff may recover from Company B, up to its policy limits, and then from Company A, as excess carrier, up to its limits.

Uninsured motorist ("UM") coverage generally applies to situations where the tortfeasor has no liability coverage. Underinsured motorist ("UIM") coverage generally applies where the tortfeasor has inadequate insurance coverage. UM and UIM coverage often involve many complex and difficult issues. It is essential for the trial lawyer to be well versed in the law relevant to such UM and UIM analyses.

In Virginia, as a general rule, stacking of UM coverage is permitted where the injured person has available two or more separate policies providing UM coverage, but stacking is not generally permitted where the injured person has two or more vehicles insured on the same policy. UIM coverage is a subject that comes up in a surprisingly large percentage of automobile injury cases. In Virginia, as a general rule, the injured victim may seek UIM coverage from the following policies, in the following priority: (1) the policy covering the vehicle occupied by the injured person; (2) the policy covering a vehicle not involved in the accident under which the injured person is a named insured; and (3) the policy covering a vehicle not involved in the accident under which the injured person is an insured other than a named insured.

A thorough understanding of the sources of insurance coverage for automobile injury cases is essential for the trial lawyer. Determining all sources of coverage, while often a complicated endeavor, is an essential task in just about every automobile injury case.