

PROTECTING YOUR ASSETS: AUTOMOBILE LIABILITY INSURANCE MAY NOT BE ENOUGH

“Don’t worry, I have plenty of automobile insurance.” Such a belief is shared by many individuals, including those who have just been injured in a serious automobile accident as a result of the negligence of another, and also by those who have just caused one. In either situation, insurance coverages and the amount of such coverages are of paramount importance. Insurance is a complicated subject and, therefore, it is not surprising that many people do not completely understand what coverages they have, or do not have. Insufficient protection, regardless of who caused the accident, is commonplace.

When an individual consults an attorney due to injuries that were caused by another driver, one thing an attorney does early on is evaluate the amount of insurance available to compensate the injured party. All too often with serious injury cases, there is inadequate insurance and, consequently, the injured party does not receive fair and reasonable compensation. Generally, Wisconsin does not require drivers to have automobile insurance. Even when they do have insurance, however, Wisconsin law allows insurance carriers to sell drivers as little as \$25,000 per person and \$50,000 per accident of automobile liability coverage. If the party causing your injuries has only \$25,000 in insurance limits, but your injury claim is worth \$425,000, for example, you may then be forced to try to recover the additional \$400,000 from the wrongdoer’s personal non-exempt assets. A lot of people do not have any or many non-exempt assets and, as a result, injured parties are often times insufficiently compensated for their injuries.

What can you do to protect yourself and your family from an underinsured wrongdoer? One easy answer is to purchase “underinsured motorists” coverage (often referred to as “UIM” coverage). UIM coverage is purchased under your own policy and acts as supplemental coverage to the other driver’s liability limits. For example, if the wrongdoer has limits of \$25,000, you have a claim worth \$425,000, and you have \$500,000 of UIM coverage, you would receive \$25,000 from the wrongdoer’s carrier and the remaining \$400,000 from your own carrier.

Why is it that so many people don’t have, or don’t have enough, UIM coverage, especially when the extra premium for UIM coverage is nominal compared to the protection it provides? Nobody effectively informed them that this coverage was available and/or its purpose was not adequately explained are the likely answers. Prior to 1995, neither insurance companies

nor agents were required to inform insureds that UIM coverage was available. The Wisconsin legislature recognized this problem and the resulting shortfall to individuals injured by underinsured motorists, and insurers have since been required to provide written notice to insureds informing them of the availability of UIM coverage as well as a brief description of the coverage. The 1995 law was helpful, but interpreting this law resulted in much confusion and debate. The Wisconsin Office of the Commissioner of Insurance, recognizing the importance of UIM coverage and policyholder knowledge of its availability, took action earlier this year by amending its administrative rules and creating others. While insurance companies have notice obligations that have now been clarified, policyholders should take steps to make sure they understand this important coverage.

Although “uninsured motorists” coverage (often referred to as “UM” coverage) is better understood and is found in every Wisconsin automobile liability policy as required by Wisconsin law, that law only requires that limits of \$25,000 per person and \$50,000 per accident be included in each policy. The previous example demonstrates that higher UM limits will also provide enhanced protection when you are injured by a wrongdoer who has no automobile liability insurance. Again, the premium for increasing your UM coverage is minimal.

On the other hand, if you cause an automobile accident, severely injuring someone, and your liability coverage is insufficient to pay the injured party’s damages, your non-exempt assets can be stripped away from you to pay the deficiency. To protect your assets and future earnings, sufficient liability insurance is necessary. Umbrella (or excess) policies minimize your personal exposure by providing supplemental coverage to your underlying policy limits. A large limits umbrella policy that supplements your automobile and homeowners’ liability policies may be well worth the additional premium cost.

Significantly, an umbrella policy purchased by you may also be utilized as a source of compensation to you; that is, when an uninsured or underinsured driver causes damages to you which exceed that wrongdoer’s insurance limits and also exceed the UM and UIM limits of your own automobile policy. However, you must specifically purchase UM and UIM coverages to be included as part of your umbrella. A common mistake is to assume that your umbrella policy includes UM and UIM coverages, just because your automobile policy has these coverages. Although not all insurance carriers offer UM or UIM coverage as part of an umbrella, those that do provide it do so at a relatively low premium cost.

Loss prevention measures are the ideal way to minimize injuries and liabilities, but accidents happen and preparing for the consequences must be done proactively. Regardless of who causes the injuries, individuals have the control to increase their recovery potential and minimize their exposure through the purchase of proper and sufficient insurance.