WHAT IF I AM INVOLVED IN A “HIT AND RUN” CRASH OR COLLISION WITH AN UNINSURED OR UNDERINSURED VEHICLE?

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Photo courtesy of Jim Reed, Ziff Law Firm

All too often our offices are called upon to handle a crash where the cyclist was involved in a “hit and run” collision – one where the driver and owner of the car was never identified.

Another common scenario involves a serious crash where the offending vehicle and driver were *underinsured*; meaning that the coverage of the vehicle was insufficient to compensate our client for the severity of the injury. In an even worse scenario, the offending vehicle fails to have insurance at all.

Lack of sufficient insurance may affect you if you participate in group rides. Sadly, it is not uncommon to hear of crashes when a vehicle strikes multiple riders in a peloton. In that circumstance, one insurance policy may be called upon to cover multiple injuries. If that driver has the minimum coverage allowed in New York ($25,000 for one injured party and a maximum of $50,000 for all injured parties) that one auto policy may not be enough coverage for those who were injured. What can you do to protect yourself and your family if this occurs? This article will teach you how your **own** auto policy can protect you and your family if this occurs.

What is SUM Coverage?

SUM coverage is also known as underinsured or uninsured motorist coverage. It is mandatory in New York; it is separate and apart from your liability and no-fault coverage. By law, everyone who purchases insurance for a vehicle in New York has available to them uninsured coverage in the amount of $25,000.00 per person and

$50,000.00 per occurrence. However, for most people involved in a serious crash this coverage is just not enough. Your policy may allow you to purchase additional coverage, and the cost of this additional protection is minimal. The law currently requires that your SUM coverage be equal to your liability limits.

Whether you are a cyclist, pedestrian, driver or even a passenger, this coverage will protect you and your family.The difference in these coverages is explained below.

Uninsured Motorist Protection

Uninsured Motorist Protection is when the offending vehicle is:

- Uninsured – vehicle simply has no coverage at all
- Vehicle is insured, but coverage for the crash denied due to a disclaimer
- You are involved in a “hit and run” crash where vehicle is never identified

The Caveat! Most policies required reporting the crash to police within 24 hours of the occurrence. This is why we always advise you to call the police after a crash! You may not know the car has no coverage until it’s too late.

*Under*insured Motorist Protection

- The vehicle is insured, but there is not enough coverage to compensate you or your family member for the crash
- If you have sufficient SUM coverage, you can make a claim against your own policy for the additional damage
- By example: The offending vehicle has $25K in coverage – the minimum allowable in NYS.
- You Have $100K SUM coverage
- After collecting the $25,000 from the other vehicle, you would have available to you $75,000 to compensate you for your injury

If you didn’t have 100K in SUM coverage, the most insurance available to you would only be $25,000.00, despite the severity of your injury. There is no limit to the amount of SUM coverage you can buy, it just must be consistent with your liability coverage on your car.

Have you checked your own Auto Policy for SUM coverage?

Today! Right Now! Check your insurance policy!

Photo courtesy of Victomlawyer.com

You need to check your auto insurance policy and verify your coverage. DO NOT rely solely upon your broker or insurance company salesperson to confirm you are covered. After purchasing sufficient liability coverage, the cost for increased SUM is not expensive. Don't let your broker or sales representative talk you out of it

Currently in New York, despite passing in both houses, the Governor recently vetoed a bill that created mandatory SUM coverage equal to the policyholder's liability. The policyholder would affirmatively have to opt out of the coverage if they so choose to do so. As the law currently stands, this additional coverage is not automatic and it is incumbent upon you to verify.

MVAIC

This article would not be complete without a discussion about MVAIC. MVAIC is the last resort. If you own a car, and have proper SUM coverage, you will never need to make a claim. MVAIC is difficult to navigate and the process is tedious even for a seasoned attorney. Even if successful, your recovery at the end is limited.

The Motor Vehicle Accident Indemnification Corporation (MVAIC) was created to pay benefits to the automobile crash victims, pedestrians, or cyclists who were injured by an uninsured vehicle. MVIAC provides both no-fault benefits up to $50,000.00, as well as the available coverage for up to $25,000.00 per person injured in a crash.

Filing a claim through MVAIC is a method to make a recovery if you are involved in a crash and neither you, nor anyone in your household owned a vehicle at the time. MVAIC also applies if coverage is denied or disclaimed, the accident was a hit and run, it involved a stolen vehicle, or the owner did not give driver permission to use the car (denial of permissive use).

The requirements for MVAIC benefits are:

- You were involved in a motor vehicle crash in New York.
- You were a resident of New York when the crash occurred. Under special circumstances, residents of other states may be eligible for MVAIC benefits. If you were not a resident of New York when the accident occurred, and you have questions pertaining to eligibility, please contact MVAIC by phone at (646)205-7800, or via email at HelpDesk@mvaic.com.
- You have no other automobile insurance available to you. If you or any of your household relatives own an insured motor vehicle, you will be required to file a claim with that insurance company to see if you are covered under that policy for benefits.
- You were NOT the owner of the uninsured vehicle that was involved in the crash.
- You were NOT the spouse of the owner of the uninsured vehicle, or a passenger in that uninsured vehicle.
- Additionally, there are time frame requirements that must be adhered to. If these timeframes are not met, your eligibility could be affected.

Again, if you have proper SUM coverage with your own car, you will never need to file a MVAIC claim.

As always, if you have any questions about this coverage and how it applies in a bike, pedestrian or other auto crash case, please feel free to call or e-mail us. We are also happy to review your auto coverage with you and discuss your current coverage. Just scan and send us your Declaration Sheet, the page that shows you coverage, and we call you to discuss.

About “Wheels of Justice”

These are some of our guidelines on what to do if you are involved in a Bike or Bike Share crash or accident. They are provided by Daniel Flanzig Esq. ofNewYorkBikeLawyers.com (Flanzig and Flanzig, LLP) and Jim Reed, Esq. ofZifflaw.com. We are New York Attorneys focusing in the rights and protection of cyclists across New York. Nothing on this page should be construed as legal advice nor does the use of this page or column create an attorney/client relationship. The advice on this page offers a general overview of the laws in New York. Remember, every incident or claim is specific, and the guidelines may not be applicable to your particular case. As always, we suggest contacting an attorney with any legal claim or issue before taking action on your own behalf.

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