

UNDERSTANDING YOUR AUTO POLICY – UNINSURED MOTORISTS COVERAGE

Being involved in a wreck is a bad situation. Being involved in a wreck that is not your fault and where the other driver has no insurance is worse. Although NC law requires liability insurance, the reality is many drivers on the road lack liability insurance to pay for harm they may cause. Fortunately, since 2009 every policy of personal auto insurance issued in North Carolina requires coverage for this type of situation. That coverage is called Uninsured Motorists or “UM” coverage. This is not to be confused with Underinsured Motorists or “UIM” coverage, which applies when the at-fault driver has *some* insurance coverage, but not enough to cover the harm caused.

NC law requires that all policies have a minimum of \$30,000 per person/\$60,000 per accident of UM coverage for injury and \$25,000 for property damage, with the option to select higher limits. This coverage pays for damage to your car, medical expenses, lost wages, and other damages resulting from your injuries. In essence, the UM coverage on your policy steps into the shoes of the uninsured at-fault driver and pays damages that person could be held responsible for under the law, with a few exceptions.

One such exception is punitive damages. Punitive damages involving automobiles are most often situations involving drunk driving, racing, or similar plainly dangerous and reckless behavior. Punitive damages punish the reckless driver for what he did and deter him (and others) from repeating that conduct in the future. While the law allows that claim against the reckless driver, your UM coverage would not pay punitive damages even if a jury allows them.

“Hit-and-run” situations also require a particular analysis in NC. In order to have a valid UM claim in NC in a hit-and-run situation, you must prove “contact.” The “contact” rule does not require the hit-and-run motorist contact your car. As long as the hit-and-run motorist contacts some vehicle which contacts your car, then you can be covered under your Uninsured Motorist coverage. Two different scenarios can show how that plays out. Let’s say you are driving to Wednesday night church, and your pastor happens to be traveling behind you in his car. As you enter a curve, an oncoming car is over the center line and heading towards you. If that vehicle hits your car, but doesn’t stop and leaves the scene never to be identified, you have a valid UM claim for any injury. That’s because of the physical contact between the hit-and-run vehicle and your own. Alternatively, if you swerve to avoid the car and there’s no contact, but you end up going off the road damaging your car or being hurt, there is no UM coverage. This is true even if your pastor would swear under oath that you did nothing wrong and had to swerve or be hit head on. This can leave you with medical expenses that still must be paid. For property damage to be covered under UM, contact alone is not enough. A valid UM claim for property damage requires both contact and the identification of the uninsured driver responsible.

Requiring contact for a valid UM claim is designed to prevent fraud, so a person can’t simply wreck their vehicle on their own and falsely claim another driver caused it. A trend in other states to combat potential fraud, but allow UM coverage, involves allowing a UM claim

with no contact if there is an independent witness or other corroborating evidence. To date, NC has not followed that trend and we remain a strict “contact” state.

Facts in specific situations can result in different answers, and this basic description of UM coverage does not cover all scenarios. If you find yourself in an unfortunate situation like the ones described, seek legal advice for your particular situation. And remember, to protect yourself against drivers who lack sufficient insurance you should review your current coverage with your agent and purchase protection such as Uninsured Motorists and Underinsured Motorists coverage in high enough limits to cover you and your family.