

A
Lawyer's
Guide
to

Purchasing

CAR INSURANCE

SECOND EDITION

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HOW TO PROTECT YOURSELF AND YOUR FAMILY

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TIM RAYNE, ESQUIRE

WORD ASSOCIATION PUBLISHERS

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To my wife, Amee,
and two children, Sierra and Mac.

I thank you for your love
and support.

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Why is the Car Insurance Coverage I Buy So Important?

If you are injured in a car accident, several questions usually come to mind. Who will pay your medical bills and lost wages? Can you receive money compensation for your pain and suffering? What happens next?

In my experience as a Personal Injury lawyer, I have found that what happens next and how your life and the lives of your family members are ultimately impacted by the accident is often largely dependent on the choices which you made when you bought your car insurance. Those choices impact how your car gets fixed, how your medical bills get paid, how your lost wages get reimbursed, whether you can recover compensation for your pain and suffering and, if so, whether you can receive adequate compensation.

Because your car insurance coverage choices are so important and, for the most part, consumers have only a basic understanding of car insurance coverage, I have made it my mission to educate the public about this important topic.

This book will teach you how to review your car insurance coverage and will offer advice about Collision, Comprehensive and Gap Coverage, Liability Coverage, First Party Benefits (coverage

for medical bills, lost wages, accidental death and funeral bills),
Limited Tort versus Full Tort and Uninsured and Underinsured
Motorist Coverage.

If you would like to get additional advice or information free of
any charge, please contact Tim Rayne.

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How Do I Check My Car Insurance Coverage?

Because Pennsylvania law requires you to have car insurance, I assume that, if you own a car, you already have a car insurance policy. To check the coverage on your current policy, you need to look at your “Declarations Page” which usually looks similar to the following:

AUTO POLICY DECLARATIONS

Policy #	Policy Holder
111-1111	Tim Rayne
Policy Period	January 1, 2007 to January 1, 2008

STATEMENT OF COVERAGE

Coverage	Limits of Liability
Comprehensive \$500	Actual Cash Value
Collision	\$500 Actual Cash Value
Bodily Injury Liability	\$100,000 each person \$300,000 each accident
Property Damage Liability	\$ 50,000
Uninsured/Underinsured Motorist (stacked)	\$100,000 each person \$300,000 each accident

First Party Benefits

Medical Benefit	\$10,000
Income Loss Benefit	\$5,000 total \$1,000 monthly
Accidental Death Benefit	\$10,000
Funeral Benefit	\$5,000
Full Tort	

Your Declarations Page shows the types and amounts of coverage which you have and your Tort Election—Full Tort or Limited Tort.

Collision, Comprehensive and Gap Coverage

Car mishaps involving crashes, deer, snow and ice, floods, thefts, vandalism, and other unfortunate events are common. The car insurance coverage that you purchase often determines what money you will receive to repair or replace your car.

COLLISION VS. COMPREHENSIVE COVERAGE

On your own car insurance policy, you can purchase insurance to protect your car from peril. “Collision” coverage protects you from accidents which are deemed your fault. If you crash into another car, building, tree, etc., Collision coverage will pay for it. “Comprehensive” coverage protects you from damage caused by deer or other animal crashes, theft, flood, vandalism, or other events not involving collisions. If your car is damaged by one of these events, your Comprehensive coverage will reimburse you. If you finance or lease your car, you will likely be required to purchase Collision and Comprehensive coverage. It is also a good idea to purchase this coverage if you have a relatively new car which would be expensive to repair or replace. The cost of Collision or Comprehensive coverage can be reduced by increasing your deductible, which is the amount you have to pay yourself before the insurance company must start paying for damage or loss.

GAP (GUARANTEED AUTO PROTECTION) INSURANCE

If your car is wrecked and “totaled” (cannot be repaired for less than its value), then you might end up owing more to your bank or lease company than your insurance will pay you for your car. Insurance must pay the Actual Cash Value (ACV) of the car, which is often much less than you owe because vehicles depreciate in value quickly. GAP insurance will make up the difference so that you do not end up upside down on your loan or lease. If the ACV is \$10,000, but you owe \$15,000 on your loan or lease, GAP insurance makes up the \$5,000 shortfall.

Liability Coverage—Protecting Your Assets When You Cause An Accident

YOUR INSURANCE COMPANY HAS A DUTY TO DEFEND AND PAY

Your Declarations Page will list your amount of Liability Insurance Coverage for “Bodily Injury” and “Property Damage.”

Liability Insurance Coverage protects you in the event that you cause a car accident which results in property damage and/or personal injuries. Your insurance policy is a contract between you and your insurance company which promises that in exchange for your payment of premiums, the insurance company agrees to defend you and pay for the damages which you cause up to the limits of your policy. So, if you cause an accident resulting in property damage and/or injuries, your insurance company must hire a lawyer to defend you and pay for any damages up to the amount of coverage which you purchased.

HOW MUCH LIABILITY COVERAGE IS REQUIRED BY LAW?

Pennsylvania law requires a minimum of \$5,000 for Property Damage and \$15,000 of coverage for each person and a total of \$30,000 per accident for Bodily Injury.

Property Damage Coverage protects you for property damages resulting from accidents which you cause. For example, you might damage a car, fence, sign or even a building in a car accident. Property Damage Coverage would pay for such things to be repaired or replaced.

Bodily Injury Coverage protects you from claims brought by the people whom you injure in a car accident. Such coverage would pay for the injured person's unpaid medical bills, lost wages, pain and suffering and other damages.

The minimum Liability Coverage required by law would pay \$5,000 for Property Damage and \$15,000 per person up to \$30,000 total per accident for Bodily Injury.

WHAT IF THE LIABILITY COVERAGE YOU HAVE IS NOT ENOUGH TO COVER THE DAMAGES YOU CAUSE?

It is not difficult to imagine a scenario under which the minimum Liability Coverage would not be enough coverage to pay for the damages caused by a car accident. Damaging or totaling a car could easily result in property damages of more than \$5,000. Seriously injuring one person could easily result in more than \$15,000 of bodily injury damages, and causing even moderate injuries to three people could result in more than \$30,000 of bodily injury damages.

Your insurance policy is a contract with the insurance company which only obligates them to pay for damages up to the limits of the policy. If the damages exceed those limits, the injured party could pursue your personal assets to make up the difference. For example, if you cause \$500,000 worth of bodily injury damages

and only have \$15,000 worth of coverage, the injured party could collect \$15,000 from your insurance company and then try to get \$485,000 from you.

HOW MUCH IS ENOUGH LIABILITY COVERAGE?

You should discuss the issue of how much Liability Coverage is appropriate with your insurance agent and financial advisor. From a legal perspective, I believe that you should have sufficient coverage to protect the value of your personal assets from potential legal claims. The more assets you have, the more insurance you should have.

For high net worth individuals who require high Liability Coverage, it is often advisable to consider substantial Liability Coverage on your car insurance as well as an Umbrella Policy. An Umbrella Policy provides additional coverage on top of your car insurance coverage and Umbrella Coverage protects you from other types of liability claims in addition to car accidents.

First Party Coverage

PAYMENT OF MEDICAL EXPENSES, LOST WAGES, FUNERAL EXPENSES AND DEATH BENEFITS REGARDLESS OF WHO CAUSES AN ACCIDENT

Under Pennsylvania law, the coverage on your own car insurance policy determines how much you will initially receive by way of payment of medical bills, reimbursement of lost wages, payment of funeral bills and payment of death benefits, regardless of who is at fault for a car accident. This coverage is called First Party Benefits.

WHAT FIRST PARTY BENEFITS ARE REQUIRED BY LAW?

Pennsylvania law requires you to have First Party Medical Coverage of at least \$5,000. That means that the first \$5,000 of medical bills for each person will be paid by your own insurance company. So, if you are driving your car and are injured in an accident caused by you or another driver, your own insurance company will pay your reasonable and necessary medical bills up to the limits of your coverage.

There are no deductible or co-pays. Once your medical coverage on your car policy has been exceeded, then your health insurance, if any, will pay your medical bills. Although \$5,000

is the Pennsylvania minimum medical benefit coverage you are permitted to purchase more than the minimum coverage.

You are not required to have any coverage for lost wages, funeral expenses or death benefits. However, depending on what other insurance you carry, it is often advisable to carry coverage for lost wages, funeral expenses and death benefits. If you do not have very good Short Term or Long Term Disability Coverage, wage loss protection is advisable. Similarly, if you do not have substantial life insurance, the funeral expense and death benefit coverages are important to consider.

WHAT AMOUNTS OF FIRST PARTY BENEFITS ARE AVAILABLE?

Under Pennsylvania law, all car insurance carriers must offer the following First Party Benefits:

- Medical Benefits up to at least \$100,000.
- Income Loss Benefits up to at least \$2,500 per month to a maximum of \$50,000 total.
- Accidental Death Benefits of up to at least \$2,500.
- Funeral Benefits of \$2,500.

WHAT AMOUNT OF FIRST PARTY COVERAGE SHOULD I HAVE?

Given the high cost of health care, as well as the popularity of deductibles and co-pays in health insurance plans, it is often advisable to have substantially more than the minimum \$5,000 of Medical Benefits Coverage.

Regarding Lost Wage Coverage, coverage is available which will typically pay 80% of your lost wages with a maximum monthly and total amount. It is wise to investigate what other sources of lost income you will have in the event of an accident (Sick Pay and/or Disability Policies) when deciding how much Lost Wage Coverage makes sense for you.

Funeral Expense and Death Benefit Coverage will be paid in the event of a death arising out of a car accident. As with Lost Wage Coverage, how much coverage for Funeral Expense and Death Benefit Coverage to buy depends on the cost of the coverage and whether the people insured under the car insurance policy have life insurance.

Please consult your insurance agent and/or financial advisor regarding these issues.

Full Tort Versus Limited Tort— Preserving Your Legal Rights

WHY WAS THE TORT THRESHOLD CREATED?

In 1990, the Pennsylvania legislature created the Limited Tort versus Full Tort election for the purpose of decreasing car insurance costs. Before such an election was created, every person injured in a car accident retained the right to seek full compensation for any injuries and damages. With the change in the law, the Pennsylvania legislature allowed the purchaser of car insurance to pay a lower premium by selecting Limited Tort. The tradeoff, however, was a limited legal right to be compensated in the event of a car accident. Specifically, the election of Limited Tort led to a waiver of the right to seek certain types of compensation, unless the injury was “serious.”

WHAT DOES IT MEAN TO BE FULL TORT?

A person who elects “Full Tort” car insurance preserves full legal rights to seek compensation in the event of a car accident. A person covered under a “Full Tort” policy can seek both “economic” and “non-economic” damages from another driver who causes a car accident.

“Economic” damages would include things like unpaid medical bills or lost wages. “Non-economic” damages would include damages such as compensation for pain and suffering and emotional distress.

If “Full Tort” is elected, none of your legal rights are sacrificed. Instead, you pay higher insurance premiums to preserve those rights.

WHAT DOES IT MEAN TO BE LIMITED TORT?

A person who elects “Limited Tort” compromises legal rights in exchange for lower insurance premiums. A person covered under “Limited Tort” is able to recover economic damages from a driver responsible for a car accident. However, non-economic damages cannot be recovered unless there is a “serious injury.”

The law defines “serious injury” as “a personal injury resulting in death, serious impairment of a bodily function or permanent serious disfigurement.” The courts have been reluctant to find injuries “serious” unless the injured person has sustained a very long-lasting and seriously disabling injury.

HOW IS THE FULL TORT VERSUS LIMITED TORT ELECTION MADE?

When you purchase car insurance in Pennsylvania, you are given a form which describes Limited Tort and Full Tort. The election form also provides the cost difference between the two tort elections. The policyholder must date and sign the form, electing either Limited or Full Tort. Once the tort election is signed, it applies until a new one is signed.

WHO IS AFFECTED BY THE TORT ELECTION?

Although the policyholder makes the tort election, it applies to the spouse and relatives of the policyholder who live with the policyholder and do not have their own car insurance. If you have your own policy, your tort election applies no matter what car you are injured in. If more than one car insurance policy covers an injured person who does not have a car insurance policy, and each policy has a different tort election, the election covering the vehicle that the injured person was in at the time of the accident applies. For example, assume that a husband and wife have separate policies, husband with Limited Tort and wife with Full Tort. If their minor child is injured in wife's car, she is Full Tort, if in husband's car, she is Limited Tort.

WHEN DOES LIMITED TORT NOT APPLY?

Under certain circumstances, a person who is bound by the Limited Tort election is not prevented from recovering non-economic damages even if a "serious injury" is not involved. Under the following circumstances, a Limited Tort person is converted to Full Tort:

1. If the person who caused the accident was a drunk driver who was convicted of drunk driving or accepted into the Accelerated Rehabilitative Disposition (ARD) Program.
2. If the person who caused the accident was driving a vehicle registered outside of Pennsylvania.

3. If the person who caused the accident intended to cause the injury, rather than was simply careless in causing the accident.
4. If the person who caused the accident had no car insurance.

SHOULD I ELECT LIMITED OR FULL TORT?

The decision of whether to elect Limited Tort or Full Tort is a personal one. Limited Tort is less expensive coverage, but significant legal rights are waived through the election.

In my years of practice, I have seen many clients switch from Limited Tort to Full Tort after having been involved in an accident and having their legal rights affected by that election. Of course, switching to Full Tort only protects your full legal rights for accidents which occur *after* the switch.

Uninsured and Underinsured Motorist Coverage

HOW TO PROTECT YOURSELF AND YOUR FAMILY FROM IRRESPONSIBLE DRIVERS

There are tens of thousands of people driving in Pennsylvania with little or no car insurance. Statistically, these drivers are guaranteed to cause accidents and injuries but will have little or no ability to pay for the damages caused by their carelessness.

Luckily for you and your family, there is car insurance coverage which you can purchase to provide protection from these irresponsible drivers—Uninsured and Underinsured Coverage. If you have the foresight to purchase Uninsured and Underinsured Coverage in adequate amounts, you and your family will be protected in the event that you fall victim to an accident caused by an uninsured or underinsured driver.

WHAT IS UNINSURED MOTORIST COVERAGE?

Uninsured Motorist Coverage (UM) provides protection for an accident caused by the driver of a vehicle who has no insurance or who leaves the scene of an accident and cannot be located—a hit-and-run driver. If you were injured in an accident caused by an uninsured or hit-and-run driver and did not have UM

Coverage, you would have no way of seeking compensation for your injuries. UM Coverage is coverage which you purchase to protect you from such a situation.

If you have such coverage, your insurance company must compensate you for your damages up to the amount of your coverage. So, if you purchased \$100,000 of UM Coverage, you could collect up to \$100,000 from your own insurance company to compensate you for injuries and damages (lost wages, medical bills, pain and suffering, etc.) caused by an uninsured or hit-and-run driver.

WHAT IS UNDERINSURED MOTORIST COVERAGE?

Underinsured Motorist Coverage (UIM) provides protection for an accident caused by a driver who has automobile Liability Coverage, but not enough coverage to pay for all of the injuries and damages resulting from an accident.

For example, if a driver having only the state required minimum Liability Coverage of \$15,000 causes \$100,000 worth of injuries and damages to someone, that driver is underinsured by \$85,000 ($\$100,000 - \$15,000 = \$85,000$). In such an accident, if the injured person was covered by a UIM policy, he or she would be compensated by the UIM Coverage to make up the \$85,000 difference.

HOW MUCH UM/UIM COVERAGE CAN BE PURCHASED?

In Pennsylvania, all car insurance companies must offer UM and UIM Coverage and must obtain signed waivers if UM or UIM Coverage is rejected. The law requires the insurance companies to offer up to at least \$100,000 UM/UIM Coverage for each

person and \$300,000 per accident if more than one person is injured. Insurance companies can sell higher limits of UM/UIM Coverage, but the amount of coverage cannot exceed the amount of Liability Coverage purchased. So, if you want \$500,000 of UM/UIM Coverage, you are required to purchase at least \$500,000 of Liability Coverage.

WHAT IS UM/UIM “STACKING”?

In addition to choosing the amount of UM/UIM Coverage, if you insure more than one vehicle on your policy, you are given the option of whether or not to “stack” your coverage. “Stacking” provides extra coverage by multiplying the amount of coverage by the number of vehicles insured under the policy. For example, if you stack coverage limits of \$100,000/\$300,000 on a three vehicle policy, you are actually insured for three times the face amount of the policy or \$300,000/\$900,000 ($\$100,000/\text{person} / \$300,000 \text{ per accident} \times 3 \text{ vehicles} = \$300,000/\text{person} / \$900,000 \text{ per accident}$).

Because “stacking” coverage is relatively inexpensive, it is a good idea to consider it for multi-vehicle policies.

HOW DO I RECOVER UM/UIM BENEFITS?

UM/UIM Benefits are recovered through the presentation of a claim with your own insurance company. Because you are seeking to recover compensation for your injuries and damages, your interests are adverse to those of the insurance company. Obviously, insurance companies lose money when they pay such claims.

Given this adversarial relationship, it is usually advisable for you to be represented by an attorney in UM/UIM proceedings in order to have your rights protected. If an agreement cannot be reached for a fair amount of UM/UIM compensation, the case must proceed to either an arbitration hearing or a trial, depending on what the insurance policy provides as the forum for such cases.

CAN MY INSURANCE RATES BE INCREASED IF I FILE A UM OR UIM CLAIM?

Unless you are held to be responsible for the accident, your insurance rates may not be increased as a result of your filing a UM or UIM claim.

How Do I Change My Car Insurance Coverage?

If, after reading this book and reviewing your car insurance Declarations Page, you want to change coverage, you should immediately contact your insurance agent. Coverage can be changed almost instantaneously without you having to wait until the end of the policy period. You should always make sure to get a new copy of your Declarations Page from your agent to confirm your updated coverage.

Important Choices—Free Help

Car insurance coverage choices are important and difficult. If you are involved in a car accident, the selections you made will substantially impact you and your family.

If you need advice or want a review of your car insurance policy, please call or e-mail me, and I will be happy to review your policy free of any charge.

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About the Author



Tim Rayne is a partner in the Chester County, Pennsylvania law firm of MacElree Harvey, where he focuses his practice in Personal Injury law. Since 1995, Tim has been helping people who have been injured in accidents receive fair treatment from insurance companies. Tim has experience in negotiating settlements with insurance companies and trying Personal Injury cases including car, truck, motorcycle and pedestrian accidents, slip and fall cases, medical malpractice cases, and cases involving injuries caused by dangerous products.

Tim received his law degree from Widener University and has a Master's Degree in Trial Advocacy from the Temple University Beasley School of Law. For multiple years, Tim has been named by *Main Line Today* magazine as one of the area's Top Personal Injury Litigators and has also been named as a Super Lawyer in Personal Injury by *Super Lawyers* and *Philadelphia Magazine*. Tim is the author of numerous publications on Personal Injury and is a columnist for the *Kennett Paper*, the *Avon Grove Sun* and the *Chadds Ford Post*. In addition to this book, Tim has published another book titled "A Lawyer's Guide to Personal Injury Cases."

MacElree Harvey is a full service law firm with offices in West Chester and Kennett Square, Pennsylvania and Centreville, Delaware. MacElree Harvey is one of the oldest and largest firms in Chester County and we are prepared to assist our clients with many legal issues, including but not limited to the following: Bankruptcy, Business Organization, Criminal Law, Estate Planning and Administration, Family Law, Immigration, Land Development and Zoning, Medical and Professional Malpractice, Personal Injury, Real Estate and Taxation.

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