

SECOND EDITION

A Lawyer's Look At

**Buying Car
Insurance**

HOW TO PROTECT YOUR
FAMILY AND YOURSELF

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INTRODUCTION

The purpose of this book is to help you better understand your insurance coverage and the needs that you actually have so that you are able to better protect your family and you in the future. Insurance is complex and you may not always have a knowledgeable person or one with your best interest giving you the advice that you need.

I am not an insurance agent nor will I benefit financially from offering you the advice in this book. My goal is simply to make certain that you have the information that you need to make an informed decision on the type of insurance coverage that best suits the needs of your family.

When you are in a wreck and injured you want to know:

1. Will my medical bills be paid?
2. Will my car get repaired?

3. What if the at fault driver does not have insurance or enough insurance?
4. Will I lose everything that I have worked so hard to get?
5. Will my insurance company take care of my family and me?

We answer all of these questions and more for you. For additional information visit our website at www.davidblackwelllaw.com or call us at (803) 285-0225.

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CHAPTER 2

DISCLAIMER

The information in this book is general and is not intended to be legal advice. It is simply intended to share with you the need to be properly informed about your insurance needs so that you are better protected. Our goal is that you will acquire enough information to make better decisions so that you get the maximum protection that you deserve for you and your family. If you want legal advice particular to your case, we would be glad to meet with you and answer all of your questions, even if you choose not to hire us. Please visit our website at www.davidblackwelllaw.com or call us at 803.285.0225 for more information.

THE ONE THING YOU SHOULD KNOW AND WHY

People get in wrecks all the time. Sometimes, you walk away with no injuries. Other times, getting rear ended at a stop light can cause serious harm.

When someone else is to blame for a car wreck, you have two choices:

1. You can depend upon the other driver to have enough liability insurance to fully compensate you for your injuries. Many people have found out that this is not a good plan. Since the minimum liability coverage in South Carolina is only \$25,000, it doesn't take much of a wreck to exceed this amount of coverage.
2. You can buy the right amounts of coverage to protect you and your family.

My recommendation is that you buy enough uninsured and underinsured motorist coverage to protect you and your family. In addition, you may want to strongly consider Personal Injury Protection (PIP) coverage and GAP coverage.

WHY?

These are the stories of some of my clients. The names have been changed.

Ned was hit by a driver who was going 25 miles an hour over the speed limit. He suffered many injuries and spent several weeks in the hospital. His medical bills were just under \$200,000. Ned still suffers pain in his back.

Tammy was hit by a driver while she was standing in a parking lot. She was taken by EMS to the hospital and later had surgery. She still has a limp. Her medical bills were around \$65,000.

Donna was leaving a parking lot where she had just dropped off her children. She was hit by a car whose driver was speeding to get home. The car hit the side of Donna's car where one of her children had been sitting. Donna was taken to the hospital and has over \$45,000 in medical bills.

Jeffrey was riding a moped when a driver ran a light and hit him. Jeffrey died from severe injuries to the head. His family buried him and simply wanted to put this tragedy behind them.

Having just read about these cases, you probably are expecting to hear about the hundreds of thousands of dollars these former clients or the families received in damages. After all, the liability was clear. In addition, these cases are not 'frivolous lawsuits' – they are real, with real damages to real people.

Here is the disturbing truth about what happened to these clients or their families. We got them every dime we could allowed by law. Here is what they received:

- Ned got a total settlement of \$25,000.
- Tammy got a total settlement of \$25,000.
- Donna got a total settlement of \$25,000.
- Jeffrey's family got a total settlement of \$25,000.

How did this happen?

Every insurance policy has a policy limit – the maximum amount that an insurance company has to pay for a wreck. They do not have to offer anything above that amount. In South Carolina, \$25,000 is all the insurance coverage a person is required to purchase for their car. In every one of these cases described, we got the full policy limits for a settlement for our clients.

In each case mentioned above, the full policy limits also happened to be the South Carolina minimum required liability insurance coverage. None of these clients above had underinsured coverage. All of these people could have received a much higher level of compensation, some even full compensation, if they had made more informed decisions about purchasing car insurance.

But can't you go after the at-fault driver's personal assets?

Yes. However, to get to that point, you have to:

- File a lawsuit
- Try the case to a verdict
- Obtain a favorable judgment
- Seize the assets of the defendant

And first, the defendant must have assets and not declare bankruptcy. The harsh reality is that most of the time, there is nothing available to collect.

The cases that you often read about where there were large verdicts are against large companies that have plenty of insurance. The only other way to protect yourself is with the right kind of insurance.

Again, that's what this book is all about.

WHAT DETERMINES THE COST OF INSURANCE?

The cost of car insurance is determined by a number of things. The 'rate' of insurance is generally calculated by multiplying the 'base rate' by your individual 'rating factor.' The base rate is the price of insurance without taking into account anything about the person buying the insurance.

Your 'rating factor' takes into account the likelihood of you getting into a wreck or at least how likely the insurance company thinks you are to get into a wreck.

Who you are...

includes your age, gender and marital status. Young drivers are more likely to be in a wreck than older drivers. Males are involved in more wrecks than females. Finally, married people seem to be a little less likely to wreck than those who are single.

Your driving record

means something, too. If your driving record is spotless – no tickets and no wrecks in which you were at-fault – your ‘rating factor’ will be lower than someone with a few blemishes.

Where you live

because there are more accidents in cities than in rural areas. That’s why urban drivers tend to pay more. Rates are typically broken down by county.

How much you drive

makes a difference in your ‘rating factor.’ The more you drive, the more at risk you happen to be.

The car you drive

makes a difference because the more it costs to repair a car, the more your damages will be in a wreck. Every car has a physical damage rating. Denting a Mercedes costs more to repair than a Prius. Another factor is the safety or liability rating of your car. People are more likely to be injured in some cars versus other cars.

$$\begin{array}{r} \text{‘base rate’} \\ \times \text{ ‘rating factor.’} \\ \hline \text{‘rate of insurance’} \end{array}$$

LIABILITY COVERAGE – PROTECTING YOUR ASSETS WHEN YOU CAUSE A WRECK

Your Insurance Company Has a
Duty to Defend and Pay

Liability insurance coverage protects you in the event that you cause a car wreck. The declarations page of your policy will list the amount of coverage for “Bodily Injury” (Medical Expenses, Lost Wages, and Pain and Suffering) and “Property Damage.” Your insurance policy is a contract between your insurance company and you that says that in exchange for your payment of premiums, the insurance company agrees to defend you and pay for the damages that you cause up to the limits of your policy. So, if you cause a wreck resulting in damage to the other car and/or injuries to another person, your insurance company must hire a lawyer to represent you

and pay for all damages up to the amount of coverage that you purchased.

For example, if you run a stop sign and hit someone, then your liability coverage does two (2) things: 1) Your insurer will pay for their damages up to your policy limits (indemnity) and 2) The insurer will provide you with a lawyer (duty to defend). South Carolina law requires that every owner of an automobile carry liability coverage of at least \$25,000/\$50,000 for injuries and \$25,000 for property damage. This 25/50 coverage means that the most the insurance company will pay to any one person hurt in a wreck will be \$25,000 and the most it will pay total to two (2) or more people hurt is \$50,000. For example, assume that you, your wife and your mother are traveling in your car and another car, with minimum 25/50 insurance coverage, hits you from behind at a stoplight and hurts all three (3) of you. In this case, the most the other driver's insurance company will have to pay would be \$50,000. An owner's policy for liability insurance coverage insures the persons actually named in the policy, anyone else driving the car with the permission of those named in the policy and anyone else in lawful possession of the car.

If damages that you cause in a car wreck are more than the amount of liability coverage that you purchased, you could be personally held responsible for the difference. You could lose some or all of what you worked hard to get. For example, if you cause \$250,000 worth of bodily

injury damages to a person and you only have \$25,000 worth of liability coverage, you could be responsible for the difference. And if you have a home worth \$100,000, the person you hurt could come after it.

Most people want to know how much liability coverage they should purchase. From a legal standpoint, I feel it should be enough to cover the value of your personal assets. The more assets you have, the more insurance you should have. I would suggest talking with your insurance agent about a sufficient amount of coverage on your car and then getting an Umbrella Policy (discussed separately).

...your insurance company must hire a lawyer to represent you and pay for all damages up to the amount of coverage that you purchased.

PROPERTY DAMAGE COVERAGE

Property damage coverage protects you for the property damage that you cause in a car wreck. For example, you might cause damage to another car, a fence or even someone's house. This type of insurance coverage pays for such things to be repaired or replaced. The minimum property damage coverage required by law in South Carolina is \$25,000.

The question most often asked of me is how much property damage coverage should I purchase. I recommend you purchase an amount that you can reasonably afford to ensure that you do not pay out of pocket or lose any of your hard earned assets. The average cost

Property damage coverage protects you for the property damage that you cause...

to replace a totaled car is a good place to start. The premium for property damage is relatively small compared to the premium for bodily injury.

CHAPTER 7

PERSONAL INJURY PROTECTION (PIP)

Payment of Medical Expenses Regardless of Who Caused the Wreck

Personal Injury Protection or PIP, as it is often called, is insurance coverage on your own policy that will pay your medical bills if you are hurt in a wreck up to whatever limits you chose. For example, if you are hurt in a wreck and you have PIP insurance coverage of \$5,000 on your own automobile policy, then your medical bills that are necessary and reasonable will be paid by this type of insurance coverage, even before you settle your case. PIP insurance sometimes allows you to pay some medical bills and prevents medical providers from trying to collect from you while your case is being settled.

We are often asked, “I have health insurance, so why do I need this type of coverage?” The answer is because

you will have co-pays and deductibles that PIP coverage may cover so that you will have no or very little out of pocket costs.

...you will have co-pays and deductibles that PIP coverage may cover...

CHAPTER 8

UNDERINSURED COVERAGE

Underinsured motorist coverage protects you and your family if the at fault driver has some liability insurance coverage, but not enough to cover your damages if you receive more serious injuries. Since the minimum amount of liability insurance coverage required by law in South Carolina is only \$25,000, it does not take much of an injury to have medical expenses greater than the liability insurance coverage of the at fault driver. For example, suppose that you or a family member is t-boned by another driver who only has the minimum liability insurance required in South Carolina – \$25,000. Your family member is taken to the hospital and the doctors run a series of tests so that they can make an accurate diagnosis and offer the right treatment. It appears that your family member will need some further treatment to relieve the pain. The \$25,000 may not be enough to cover something even this simple.

Can you imagine what the medical bills would be if your family member has a broken bone or worse and requires surgery? Do you think the South Carolina minimum required liability insurance coverage of \$25,000 will be enough to pay these medical bills? How about a couple of months of physical therapy? This is the reason you need to carry Underinsured Coverage on your own automobile policy. The insurance company must offer you this additional insurance coverage up to the value of your own liability insurance coverage amount. This is called a “meaningful offer.” The South Carolina Department of Insurance requires that you sign a form stating that you were offered this coverage. For example, if you have the South Carolina minimum liability insurance coverage of \$25,000, you are entitled to purchase up to \$25,000 of underinsured coverage. This means that if you are in a wreck and your medical bills are \$35,000, the at fault driver’s liability insurance should pay \$25,000 and your underinsured coverage will cover the difference of \$10,000.

How much underinsured coverage should I buy? Generally, you should buy as much underinsured coverage as you can reasonably afford. Underinsured coverage costs much less than you might think. And filing a claim under your own policy can certainly be much more cost effective than having to dig into your own pocket to pay your medical bills.

What kind of drivers do you think cause the most devastating injuries in car wrecks? Go figure, they tend to be the uninsured and underinsured drivers. Bad drivers have a lot of speeding tickets, DUIs and prior wrecks and cannot afford the high rates they have to pay. The only thing that protects you from these drivers is underinsured and uninsured coverage. And because our state requires low liability limits, expect the cost of this type coverage to continue to increase.

...you should buy as much underinsured coverage as you can reasonably afford.

UNINSURED COVERAGE

Uninsured motorist coverage is exactly what it sounds like, and more. When you are involved in a wreck and the at fault driver does not have any liability coverage, your insurance company steps in to protect you and your family, including if someone leaves the scene of a wreck and cannot be found – a “Hit and Run” driver. In addition, you are covered even if you are not in your car and you are walking or riding your bicycle. And it might surprise you to know how many uninsured motorists are actually on the road. It is estimated that 1 out of 5 (20%) drivers is uninsured.

If you are hit by a driver who does not carry any liability insurance coverage, you must file a claim against your own insurance company. Your insurance company now steps into the shoes of the at fault driver who hit you and actually becomes your adversary on the other side. So, be very careful in dealing with your own insurance company in this situation. Remember, you paid premiums to

If you are hit by a driver who does not carry any liability insurance coverage, you must file a claim against your own insurance company.

your insurance company for this protection.

For example, if you are hit by a driver who does not have any liability insurance coverage, you may not be able to recover anything from them unless they have sufficient assets from

which to collect. A large number of people without any insurance are without insurance because they cannot afford it. Yes, it is against the law, but if they cannot afford insurance, most likely they have no money to pay you.

How much uninsured coverage should I buy? Generally, I share with my clients to buy as much uninsured coverage as they can reasonably afford. You may be surprised to know how much coverage you can buy for a very small increase in your insurance premium.

CHAPTER 10

COLLISION/ COMPREHENSIVE COVERAGE

Collision insurance coverage pays for your car in case you are at fault for a wreck. Many drivers who own a “clunker” will not carry this type of insurance coverage because they figure paying for the coverage is not worth it when considering the value of the car. It is a good idea for most car owners to carry this type of insurance coverage so that in those cases where there is a dispute as to which driver is at fault, the damaged car can be repaired or paid for if it is totaled.

Comprehensive coverage is a ‘catch-all’ coverage that protects you against a variety of dangers other than a collision. If you have comprehensive coverage, you are insured if your car is stolen, struck by lightning, flooded out, struck by hail or hit by a fallen tree. In addition, this coverage can take care of broken windshields and

windows, which might be somewhat costly to repair. And the premiums are generally very low. The lower in value your car is worth, the less you need this coverage.

The lower in value your car is worth, the less you need this coverage.

GAP COVERAGE

GAP insurance is exactly that – it fills in the gap if your car is totaled and you owe more than it is worth. When you buy a new car, once you drive it off the car lot, its value drops a lot. Sometimes, the amount owed right after the purchase of a new car is more than the car is worth. If you are hit by someone else, their insurance company only has to pay you the fair market value of the car. GAP insurance covers the difference between the fair market value (FMV) and the balance that you owe on your car. Most lenders require this type of coverage.

Cars lose a lot of value the minute you drive them off the dealership lot. If you just bought a car, I would recommend this type of coverage

GAP insurance covers the difference between the fair market value and the balance that you owe on your car.

until the amount that you owe equals the value of the car. It no longer serves a real purpose past this point and it is fairly expensive.

CHAPTER 12

UMBRELLA LIABILITY COVERAGE

In addition to primary liability insurance, many people buy personal umbrella policies. These provide a second layer of liability protection, offering valuable security at a very reasonable cost. Your umbrella policy protects you if you're sued for an amount in excess of your liability insurance policy limit and would kick in once your liability insurance has been exhausted. However, to purchase an umbrella policy, you generally have to have a certain amount of liability insurance coverage on your car. Check with your insurance company to find out its minimum required coverage. In addition, this is called a 'scheduled' policy, so you must list the individual items that you want covered. For items like scooters, boats, golf carts and ATVs, you will need to also list them on your homeowner's policy.

If you have considerable assets to protect, I encourage you to purchase an umbrella insurance policy. This type of coverage is generally inexpensive, however, a driver's bad record can increase the cost of this coverage or if the driver's record is bad enough, this coverage might not be available.

...a driver's bad record can increase the cost of this coverage...

HOW SHOULD I SHOP FOR INSURANCE?

Most people shop for insurance by figuring out what they are looking for, and then shopping for it at the lowest price. This method of course is based upon the assumption that all policies are basically the same. The problem is that insurance is different than most other things that we buy.

Insurance, first of all, is not a thing – it's a contract that we enter into with an insurance company. Simply looking for a certain policy limit at the lowest price means we're ignoring what is actually in the contract. Our assumption tends to be that if we buy a car insurance policy, it will cover us in the event of a wreck. But if matters were that simple, insurance contracts would be far shorter than they actually are. Most policies include lists of limitations and exclusions, which create holes in the coverage. And if an insurance company offers a

policy that is far cheaper than those of its competitors, there's probably a reason: more holes. Of course, that doesn't mean that there aren't good deals out there. It simply means that seeking the best value requires that we balance both price and the specific terms of the policies that we consider. More often than not, you get what you pay for.

For example, be cautious of 'teaser rates.' These rates are low rates put out there by an insurance company to attract new customers. It usually only means lower coverage with higher deductibles. Most reputable insurance companies will not offer 'teaser rates.'

For some people who study insurance policies, buying online is a viable option. For others, having a well-respected insurance agent explain the policy terms is the way to go. By the way, most lawyers cannot tell you what's in their own policy. Ask your insurance agent what is in his or her policy.

Most policies include lists of limitations and exclusions, which create holes in the coverage.

FREQUENTLY ASKED QUESTIONS

1. Why does my insurance keep going up?

Your car may keep getting older, but your insurance may still go up. This is confusing to most people. Actually, the premium for your car for physical damage does tend to go down. It simply goes down less than the bodily injury premium goes up. The reason is that medical costs are going up so fast that it seems like your insurance premiums will go up forever. The costs to cover medical expenses in the event of a wreck have skyrocketed with no end in sight.

2. What is stacking?

'Stacking' refers to a recovery of damages under more than one policy or with more than one automobile on a single policy, in succession, until all of the damages are

satisfied or until the total limits of the policies/coverages have been exhausted.

For example, if you are in a wreck and it is not your fault, but the at-fault driver only has \$25,000 in coverage, you may collect from your underinsured policy if your damages are more than \$25,000. If you have an underinsured policy with three (3) automobiles covered at \$25,000 each and your damages are \$100,000, you may collect from all underinsured coverages. You would collect the first \$25,000 from the at-fault driver's liability policy. You may then 'stack' the underinsured coverages for the three (3) automobiles that you have insured with underinsured motorist coverage for \$75,000.

This also applies to uninsured policy coverages.

3. I have health insurance, so why do I need Personal Injury Protection, underinsured or uninsured coverages?

As for Personal Injury Protection (PIP) insurance, you will have co-pays and deductibles where PIP coverage may fill in the gaps so that you do not have any or very little out of pocket costs. In addition, you will be able to pay some medical bills and keep creditors from trying to collect while your claim gets resolved.

As to underinsured and uninsured coverages, health insurance pays only your medical bills and does not cover pain and suffering or lost wages. These other coverages allow you to be more fully compensated by covering all losses.

4. Doesn't South Carolina have mandatory liability insurance?

Yes, but the minimum required amount of insurance coverage is very low. All that is required is \$25,000 in bodily injury and property damage coverage. Why? Insurance companies know that the people who can afford more coverage will pay for it themselves by buying underinsured and uninsured coverage (expect these rates to skyrocket). What this means is that good drivers are now being penalized by having to insure themselves against bad drivers instead of making the bad drivers pay for their wrongdoing.

The bottom line is that the bad drivers who cause most of the injuries on our roads get to keep driving and the good drivers are subsidizing their insurance. I know you are thinking, the bad drivers should have to pay. I agree.

5. Will my car get repaired?

If the at fault driver has enough insurance coverage, his or her insurance will pay for your car to be repaired. If

not, you will need to have purchased your own coverage in order to have your car repaired. I recommend that you ask your insurance agent about your options.

6. Will my medical bills get paid?

First of all, if you have health insurance or Medicare, let the medical provider know so that it can be filed with them to pay your bills. If you do not have health insurance or Medicare, you will generally have to wait until your claim is resolved to have your medical bills paid.

Once your claim settles, if the at fault driver has enough insurance coverage, his or her insurance will pay for your medical bills. If not, you will need to have purchased your own coverage in order to have your medical bills paid. I recommend that you ask your insurance agent about your options. In addition, you may purchase Personal Injury Protection (PIP) coverage so that at least some of your medical bills will be paid immediately.

7. What does \$25,000/\$50,000 mean, anyway?

It means that you have \$25,000 worth of insurance coverage per person and \$50,000 worth of insurance coverage per wreck. For example, no one individual can be paid more than \$25,000 for their injuries in a wreck. If four people were injured in a wreck, no one person could get more than \$25,000, but the total of \$50,000

would have to be shared by all four people, regardless of their injuries.

8. Will the insurance company pay for a rental car?

Typically, you would have the use of a rental car until the authorized repairs were done to your car or your car was determined to be a total loss. This would depend upon the type of claim, including who is at fault.

9. If my car is totaled, will the insurance company pay off my loan?

Not necessarily. Your coverage will be for the actual fair market value of your car, not what is owed. So, if you owe more than what your car is worth at the time it is totaled, your loss will not be completely covered.

CONCLUSION

Thanks for taking the time to read this book. I am hopeful that the information presented here will help you to make better decisions to protect you and your family.

In a nutshell, you should have enough liability coverage to protect your personal assets, enough PIP coverage to fill in the gaps left by health insurance coverage, and enough uninsured and underinsured coverage to protect you against at fault drivers with low or no insurance coverage.

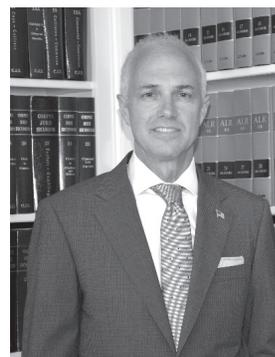
I know that you have just taken in a lot of information and you may still be confused about how insurance works. For more information, call us at (803) 285-0225 or visit our website at www.davidblackwelllaw.com.

We do not charge for this information. And if you have any suggestions along the way that may allow us to be

more effective in sharing this valuable information, please let us know.

Feel free to pass this book along to others or to have them contact us to get their own copy.

DAVID BLACKWELL



Attorney David Blackwell is a founding member of David Blackwell Law. After graduation from Wofford College, David earned his law degree at the University of South Carolina School of Law. He has helped countless families and individuals deal with personal

injury claims. His practical skills and ability to communicate with people of all backgrounds, combined with his knowledge of the law, have earned him a reputation as an attorney who takes pride in his ability to assist people whose lives have been affected by the negligence of others.

David is a certified mediator in the Circuit Court of South Carolina and he is certified to practice law in the Federal District Court and the Fourth Circuit Court of Appeals. He is also popular as a professor of law at the University of South Carolina's Lancaster campus.

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