

NEW MEXICO INJURY ATTORNEY BLOG

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New Mexico Supreme Court Expands Scope of Law on Rejection of UM/UIM Coverage

When a person suffers personal injuries in a car accident in New Mexico, there is a pretty good chance that the only insurance coverage available will be from their own uninsured/underinsured coverage (UM/UIM). New Mexico leads the nation in uninsured motorists. Unfortunately, New Mexico drivers are just as likely to carry no uninsured or underinsured motorist coverage.

Often times, drivers do not carry UM/UIM coverage because they carry no insurance at all. In addition, there seemed to be a trend among some, not all, insurance companies encouraging the waiver of UM/UIM coverage. There have been numerous cases addressing the requirements for an insured rejection of uninsured/underinsured motorist coverage.

There is public policy in New Mexico for drivers to carry UM/UIM coverage. As such, the coverage is imputed unless rejected by the insured. For an effective rejection of coverage, the insurance policy must include a written rejection of the coverage to be valid.

The New Mexico Supreme Court has now expanded the scope of the rules for a valid rejection of uninsured/underinsured coverage to an insured driver's election to carry UM/UIM at an amount below the policy's liability limits.

Essentially, the Court held in *Progressive Northwestern Insurance Company v. Weed Warriors* that an election to carry UM/UIM at levels below liability limits constitutes a rejection of UM/UIM. As a rejection, it must therefore be in writing and attached to the policy.

The Court reiterated the State's public policy of expanding UM/UIM coverage for the State's drivers. The Court flatly rejected any suggestion that a driver must request the coverage. Instead, the coverage must be offered to the insured. The Court stated that coverage cannot be rejected unless it is first offered. This seems obvious to most of us outside those insurance companies that were discouraging UM/UIM coverage. In addition, the Court stressed the fact that the coverage must be offered to promote the public policy toward maximum UM/UIM coverage for all drivers.

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In short, *Weed Warriors* has expanded prior case-law to mandate that drivers be offered UM/UIM coverage to the same level as their liability limits. Though drivers are free to choose lower limits or to reject UM/UIM coverage altogether (a very bad idea), any such rejection must be in writing and attached to the policy.

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