

NEW MEXICO INJURY ATTORNEY BLOG

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Road Rage and Auto Accident Insurance Coverage

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A recent Pennsylvania road rage related personal injury action raises some interesting auto insurance coverage issues. The case involved a suit by a young girl against her dad for emotion distress suffered in a road rage incident where the dad was shot 4 times in the presence of the girl.

Road rage is far too common on American roads. The consequences are often severe, leading to auto accidents, physical violence, shootings, and on occasion fatalities. A question that arises is whether injuries resulting from road rage would be covered under auto insurance policies.

Many insurance policies have exclusions for acts that are too unforeseeable to be covered under the policy. Is road rage such an unforeseeable act? Arguably, it is not. In fact, road rage has become almost an accepted and dreaded part of the daily commute. This is true in small cities like Albuquerque and even truer in larger cities. The worse the traffic, the thinner the nerves of drivers. And then of course, there are those drivers that are in rage as soon as they get in their car. This is their driving persona.

It would be very difficult for an insurer to argue exclusions of coverage for road rage related accidents. There might be comparative fault issues as when the injured driver contributed to or fueled the dangerous situation with his or her own behavior. However, with New Mexico's comparative negligence model, even a partially responsible party would not be wholly excluded from making a claim.

The dueling drivers are often not the persons harmed in the road rage encounter. It is often passengers and/or other drivers. These individuals would in no way be prevented from making claims against both drivers. In addition, these individuals would also be fully within their rights to make claims against their own underinsured/underinsured motorist coverage (UIM) in the event that the one or both of the crazed drivers lacked adequate coverage.

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The question will arise in these situations as to the foreseeability of these acts. An auto accident involving road rage is certainly foreseeable. But what about physical violence? What about the shootings that occur far too often? Arguably, even a shooting is foreseeable. After all, we live in both a country of road rage and gun rights. So is it really unforeseeable that the two would merge on occasion?

Getting back to the Pennsylvania case, the little girl arguably has a claim against both her dad and the other driver. The more interesting issue that does not appear to be presented in the case is whether the dad could make a auto insurance claim for the shooting. A quick Google search shows that these are far from uncommon and therefore arguably a foreseeable incident of driving.

Road rage is common. Road rage accidents and shootings are fortunately are far less common. Hopefully, neither you or your loved ones will ever be involved in such an incident. But if you are, it would pay to seek the assistance of an experienced personal injury attorney to take a look at the coverage issues. It may be, in the absence of specific exclusions, that auto insurance of one kind or another may be available for your injuries.

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