

NEW MEXICO INJURY ATTORNEY BLOG

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Underinsured Coverage Stacks on Newly Acquired Vehicle and Replaced Vehicle During Grace Period

Underinsured coverage is often the only coverage available in auto accidents occurring in New Mexico. New Mexico and Albuquerque drivers are notoriously uninsured or underinsured. New Mexico has the highest rate of uninsured motorists in the country.

With 29% of New Mexico drivers uninsured, and many more underinsured, there is good chance if you have an accident, the other driver will have no insurance. It is a very good idea to have as much underinsured coverage as you can afford. Unfortunately, even when you have acquired significant levels of underinsured coverage, your own carrier may dispute the insurance policy limits on your coverage.

This is what happened in *Bird v. State Farm*. David Bird had four vehicles under his policy. He purchased a new Subaru which fell under the 30 day coverage provision for newly acquired vehicles. The Subaru was to replace a Jeep on the policy. However, David still had the Jeep which was to remain on the policy for the 30 day grace period, after which separate insurance would need to be purchased if the vehicle had not been sold.

During the 30 day grace period, David was killed in an auto accident caused by an uninsured motorist. State Farm promptly settled for the \$400,000 on the four vehicles but refused the additional \$100,000 on the Jeep though it was still covered under the policy. The estate of David Bird was awarded \$100,000 on summary judgment.

State Farm appealed arguing that no additional premiums were paid on the Jeep and therefore it was not covered despite the 30 day grace period. The New Mexico Court of Appeals affirmed the summary judgment award on the grounds that the policy provisions were ambiguous. In light of the ambiguity, the court determined that the insured's reasonable expectation of coverage based upon the 30 day grace period dictated the finding of additional coverage on the Jeep.

The law in New Mexico is very protective of the rights of insured motorists. The public policy dictates that motorist be afforded coverage in the event of an accident with an uninsured or underinsured motorist, a very common event in

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New Mexico. This same policy is the basis for requiring that underinsured coverage be explicitly rejected in writing by the insured. Moreover, the signed rejection must be attached to the policy itself to be effective.

In short, the law in New Mexico does all it can to protect motorists against the harm of uninsured and underinsured motorists. It is up to every driver to acquire that protection through underinsured/uninsured motorist coverage.

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