



Who is Really Protected by Uninsured Motorist Coverage?#
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Woodland Hills personal injury attorney Barry P. Goldberg really understands why California drivers have such a hard time understanding Uninsured and Underinsured Motorist coverage. That is why he is becoming known as the Los Angeles Uninsured Motorist Attorney. It is not hard to see that California Insurance Code §11580.2 (“the Uninsured Motorist Law”) is poorly written and not logically organized. More importantly, the statute is in many ways ambiguous and confusing. One of the biggest areas of confusion is that the public does not intuitively know who is really protected by Uninsured Motorist coverage. Therefore, many significant claims are never brought. Insurers favor this confusion and have consistently lobbied to keep the Uninsured Motorist Law intact and have lobbied against logical changes to the Uninsured Motorist Law.

Uninsured Motorist coverage applies to various groups of injured parties. Of course, Uninsured Motorist coverage applies to the named insured (the person listed on the actual insurance policy declarations page). It applies when an insured is driving a vehicle or is a passenger in a vehicle. It also applies to all relatives who are residents of the named insured’s “household.” Here is the kicker---the injured party does not necessarily have to be traveling in a motor vehicle at the time of the injury to receive the Uninsured Motorist benefits! The Uninsured Motorist Law, and therefore the required policy language state that a claimant may be traveling in a “motor vehicle, or otherwise.” The courts have interpreted that language “in a motor vehicle, or otherwise” to include pedestrians injured by an uninsured motorist. (See, *Lopez v. State Farm and Casualty* (1967) 250 Cal.App.2d 210.)



Most California drivers would never expect that their son or daughter would have coverage available if they were hit in a cross walk as a pedestrian or as a bicyclist---but they do! Over the years, I have been involved in litigating with the insurance companies who, exactly, is a “resident” of a named insured’s “household.” Maybe your son or daughter is away at college, or in the military, or is living partially at an apartment to see how it goes. Maybe your son or daughter splits time between the households of a divorced couple. There are unlimited variations and factual considerations. The courts basically apply the standard liberally in order to afford California accident victims with coverage. (See, ***State Farm Automobile Ins. Co. v. Elkins*** (1975) 52 Cal.App.3d 534.)

Most California drivers would never expect that they are covered when they are involved in a “hit and Run” accident. How could they? They don’t even know who hit them! As I have written about extensively, “hit and run” cases are rapidly increasing proportionate to the number of uninsured and unlicensed drivers in California---now estimated to be around 2,000,000. In Los Angeles, about half of all accidents reported to the LAPD are “hit and run.”

Never fear, as long as an insured follows the procedural protocol, Uninsured Motorist Coverage will apply to a “hit and run.” The procedural protocols are in the Uninsured Motorist Law to protect the insurers! Many cases are lost because people injured in “hit and run” accidents fail to promptly establish their cases. That is understandable---they were just in an accident!

One of the biggest requirements for “hit and run” under Insurance Code §11580.2(b) is that there be “physical contact” with the adverse vehicle. Here is where the courts draw the line---there is no coverage for being run off the road by a “phantom” vehicle, even if there are witnesses! On the other hand, the courts have liberally applied the standard and allow “physical contact” to be established by slight touches, flying debris from other vehicles, and by contact with intervening vehicles struck by the “hit and run” driver.



The Uninsured Motorist Law further requires that the accident be reported to the appropriate police department within 24 hours and that the claimant file a claim within 30 days providing a statement under oath concerning the facts of the accident. A lawyer's help in establishing a "hit and run" is usually prudent. I have litigated several cases, even involving months or years of delay, resulting in huge settlements for my clients in "hit and run" cases. I have had clients who were physically unable to comply with some of the requirements. More and more, we see police departments refusing to accept a late report of an accident. You can still insist that a report be taken even months or years after the accident. Although not ideal to delay, it may not be fatal to a claim. The courts really look to see if the insurer suffers any significant prejudice by the delay before blocking coverage. (See, *Beck v. State farm Mutual Auto Ins. Co.* (1976) 54 Cal.App.3d 347.)

If you or a family member have been injured by an uninsured motorist or in a hit and run accident, whether in a vehicle or while walking or riding a bicycle, it is recommended that immediate action be taken to establish the claim. Barry P. Goldberg, A Professional Law Corporation, has the knowledge and experience to protect your rights involving the often confusing and misunderstood Uninsured Motorist Law.

For more information about blog author and attorney Barry Goldberg's civil litigation expertise, please visit his web page, [Woodland Hills Civil Litigation Attorney. *http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx*](http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx)

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Call Mr. Goldberg today for a free consultation. (818) 222-6994

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