



LADDEY, CLARK & RYAN, LLP

ATTORNEYS AT LAW

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FOCUS ON PERSONAL INJURY

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New Jersey Auto Insurance – Are You Covered?

By Andrew A. Fraser, Esq.



According to the National Highway Traffic Safety Administration there are more than 38,000 fatalities each year in the United States and more than 1,860,000 injuries as a result of motor vehicle accidents¹. In New Jersey we had more than 800

fatalities last year and thousands of New Jersey citizens were injured in motor vehicle accidents.

Driving these days, especially in New Jersey, has become increasingly hazardous. How can you best insure that you have sufficient auto insurance coverage to protect you and your family?

The law in New Jersey requires the owner of every automobile registered or principally garaged in New Jersey to purchase an automobile liability insurance policy. If you do not purchase insurance, you will be subject to civil and criminal penalties including fines up to \$5,000, community service, loss of license and imprisonment. In addition, if you are injured while operating an uninsured automobile you may not be permitted to recover any economic or non-economic damages from the careless driver who caused the accident, even if you were not at fault.

Currently in New Jersey, you can choose either a **standard policy** or a **basic policy**. The standard policy provides liability coverage to protect your assets (your property and your income) if someone makes a claim against you. This is the amount of money that your insurance company will pay to someone who is injured by

you, by a resident family member, or by the driver of your car. In addition, a standard policy provides uninsured/underinsured motorist coverage if you or a resident family member are injured by a driver who has no insurance or who has very limited insurance.

Underinsurance coverage is critical and you should be sure to protect you and your family by requesting the highest amounts of coverage you can afford. It is recommended that you purchase underinsurance coverage at a minimum of \$500,000.

Recommended Coverage:

- √ *Standard policy*
- √ *\$250,000 personal injury protection*
- √ *\$500,000 single limit liability coverage*
- √ *\$500,000 underinsured/uninsured coverage*
- √ *No limitation on lawsuit option*

The minimum liability and uninsured/underinsured motorist limits in New Jersey are \$15,000 per person/\$30,000 per accident for bodily injury and \$5,000 for property damage. Accordingly, someone could be operating their car in New Jersey legally and only have \$15,000 worth of coverage available to you if you are injured as a result of their carelessness.

Purchase a standard policy as it provides the best insurance coverage to protect your assets and your family. **Always buy a standard policy.** A basic policy provides minimum coverage and does not provide liability coverage if someone makes a claim against you for bodily injury. A basic policy only provides \$15,000 of medical expense benefits and does not provide uninsured/underinsured motorist coverage.

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¹ Source: Crashes, Fatalities, Injuries and Costs National Highway Traffic Safety Administration, 2004.

New Jersey's Wrongful Death Act

By Lauren D. McFadden, Esq.



Beyond grief and the trauma of a loved one's tragic event, preserving your rights and the rights of the victim are of great concern, and a knowledgeable attorney will guide you and your family through the process.

New Jersey has a Wrongful Death Act, codified at N.J.S.A. 2A:31-1, et seq. which creates a right of recovery for the economic loss caused by the negligent death of a family member. The dependants of a deceased person have the right to bring a lawsuit against the person or persons who negligently caused the death of the deceased. This death could have occurred through a motor vehicle accident, medical malpractice, a workplace accident or even homicide.

Although the first thought when a loved one dies is not to file a lawsuit, time is often of the essence. The Wrongful Death Act allows only a two-year window following the death to file a cause of action, with very few exceptions. In certain circumstances, the statute of limitations is substantially less than two years. Therefore, it is critical to contact your attorney to begin investigating the facts and circumstances surrounding the death, or you may be precluded from recovering the losses resulting from the death. Also, the longer you wait in pursuing advice of an attorney and a cause of action, the more likely the evidence supporting your claim may become difficult to obtain.

A companion cause of action that may be pursued following the death of a family member is a survivorship action, which preserves for the decedent's estate any personal cause of action that the decedent would have had had he or she survived. While the Wrongful Death Act only allows dependants compensation for economic losses resulting from the death of their family member, the Survivorship

Act (N.J.S.A. 2A:15-3) allows the estate to bring an action to recover damages which the decedent may have incurred between the time of injury and death. Pain and suffering, funeral expenses, and punitive damages are some of the claims recoverable in a survivorship action. Here again, it is important to contact your attorney to investigate and pursue claims as soon as possible to avoid statute of limitations problems.

Recently, Laddey Clark & Ryan, LLP played an instrumental role in the passage of legislation in New Jersey lifting the cap on punitive damages awards for wrongful death actions when a person is killed as a result of murder, manslaughter or aggravated manslaughter, as reported by Brendan Berls in the New Jersey Herald on January 22, 2006. Prior to this change in the law, only bias crimes, discrimination, AIDS testing disclosure, sexual abuse and drunk driving matters

were immune from the punitive damages cap, which precluded jury awards for punitive damages from exceeding \$350,000. In the interest of justice and at the urging of Laddey Clark & Ryan, the New Jersey Legislature corrected this oversight within N.J.S.A. 2A:15-5.9, et seq.

If there is concern that a loved one's death occurred as a result of the negligence of another person, whether it be another driver, a medical professional or hospital, or that the death resulted from exposure to a chemical or drug, an experienced attorney will be able to investigate the situation to preserve your rights or the rights of the decedent's estate. Often, it takes months or even years to determine the actual cause of death of a person, and this discovery does not necessarily toll, or stop, the two-year statute of limitations. Contact your attorney as soon as possible.

Lauren McFadden may be reached at 973-729-1880 and by email at lmcfadden@lcrlaw.com.

New Attorney: Ursula H. Leo, Esq.



Ursula H. Leo, Esq. has joined the law firm of Laddey Clark & Ryan, LLP, as an Attorney in the firm's Land Use, Municipal Law and Labor and Employment Groups. She is a member of the New Jersey Bar, Pennsylvania Bar, United States District Court-New Jersey, United States District Court-Eastern District of Pennsylvania and the United States Court of Appeals for the Third Circuit. Leo is also a member of the Sussex County Bar Association.

Her work in Municipal Law and Land Use includes subjects affected by rulings and implications for municipalities from both New Jersey and Federal courts, such as affordable housing, height variances, cell towers, board procedures, eminent domain, county oversight, state planning and

environmental concerns. Her practice also concentrates on Labor and Employment for employers in complying with state and federal employment laws and matters on hiring, termination, employee handbooks, pre-employment interviews and litigation and for public and private sector employees in wrongful termination, employment discrimination, employment and severance agreements.

Leo is pleased to return to New Jersey, having recently relocated to her hometown of Green Township, where she and her husband, John, are planning to build a home.

She is a Newton High School graduate and earned a B.A. (summa cum laude) from the University of New Mexico (Albuquerque) and her Juris Doctorate (cum laude) from Syracuse University College of Law.

Ursula H. Leo may be reached at 973-729-1880 or contacted by email at uleo@lcrlaw.com.

LCR in the News

Lawrence J. Supp has spent Saturdays during the last nine months refurbishing a century old, six-room duplex in Phillipsburg in conjunction with his volunteer work for the Warren County Habitat for Humanity (WCHFH). Habitat for Humanity provides housing opportunities to families who are facing a housing crisis and who are willing to assist in the construction of their home.



“It’s a great sense of accomplishment to know that you are making a contribution to a good cause”, notes Supp. He joined WCHFH about a year ago, as did his colleague at the firm, Angelo J. Bolcato, who serves on WCHFH’s Board of Directors and on its Site Selection Committee.

Supp has taught numerous legal courses at Warren County Community College (WCCC); and this Fall, is teaching Legal Research and Writing for WCCC over the Web.

Supp is a member of the firm’s Commercial Litigation practice group.



Megan E. MacMullin shared insights in estate planning and the importance of completing an estate plan at a SCARC Foundation hosted seminar recently.

“Far too often,” MacMullin noted, “families are left with many legal hurdles to ensure that their loved one’s wishes are fulfilled; and sometimes, when estate planning is not completed, those wishes cannot be satisfied.” In her seminar, *How Charitable Planning Can Help Reduce Estate Tax*, she stressed that “charitable organizations appreciate any and all gifts to their organization, no matter how large or small and charitable

giving establishes a living memory of the deceased individual for those remaining while helping those in need.”

MacMullin is a member of the Board of Trustees for SCARC, Inc. and was also recently named Vice Chairperson of the SCARC Foundation Board. Additionally, she is a member of the National Guardianship Association and the Guardianship Association of New Jersey.

This past Summer, MacMullin also participated in Sussex County’s *Money Smart Week*, which encompassed five days of free financial workshops. The goal of *Money Smart Week* is to promote the financial well-being of citizens of all ages and incomes.

At Laddey Clark & Ryan, Megan works with Richard I. Clark in the Estates and Trusts Practice Group as well as with Michael S. Garofalo in the Commercial Real Estate Practice Group.



CASES OF NOTE

Litigation, on behalf of individuals as well as public and private entities, is the cornerstone of the work that we do at Laddey Clark & Ryan, LLP. Our recent results stand for that commitment.

Thomas N. Ryan, assisted by Larry Supp, successfully defended a national real estate and business brokerage firm and its sales agent against claims of breach of contract, negligence, breach of fiduciary duty and tortious interference with business practice. The New Jersey State Superior Court jury deliberated less than two hours before delivering a verdict for the defendants.



Andrew A. Fraser and Lauren McFadden represented a client who was injured in an auto accident and sustained injuries to her neck, back and shoulder. The jury verdict awarded the client \$1.25 million. The verdict represents the second million dollar verdict for Andrew A. Fraser and Lauren McFadden in Sussex County.



Andrew A. Fraser successfully secured a \$450,000 settlement prior to trial for a motorcyclist who sued the driver of the other vehicle involved in the collision. The settlement included contributions from the adverse driver and the client’s personal auto and motorcycle carriers through his underinsurance coverage. The collision resulted in Mr. Fraser’s client requiring surgery to correct a low back injury. While able to return to his job, the client suffers from residual pain.



In another case, Mr. Fraser successfully secured a \$475,000 settlement following a private mediation for a client who suffered spinal injuries when the car she was driving was rear-ended by a truck on Route 23. The truck’s owner, as well as the driver, was named in the suit.

New Jersey Auto Insurance Are You Covered?

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The standard policy will provide coverage for medical expenses. This is known as personal injury protection (PIP) coverage and includes medical expenses up to \$250,000 per person/per accident. You may elect to purchase less coverage but it is not recommended that you do so. If you are injured in an automobile accident, your automobile insurance is primary and will pay your medical bills. You may elect to make your health insurance primary; however, your health insurance plan may not provide coverage for automobile accidents and may not cover all of your family members. Always buy \$250,000 in PIP coverage.

In addition to liability, underinsurance and personal injury protection coverage, you also have the option of choosing either a lawsuit limitation option or no option. If you purchase a standard policy you are required to elect a "lawsuit option" that will determine if you have the right to make a claim. You must select either the limitation on lawsuit option or the no limitation on lawsuit option. If you purchase a basic policy, you are assigned the limitation on lawsuit option. The limitation on lawsuit option (also known as the verbal threshold) eliminates the legal rights of yourself, your spouse and your family who reside with you to make a claim for monetary damage or to file a lawsuit against a careless driver unless you sustain a permanent injury. The no limitation on lawsuit option (also known as **no threshold or zero threshold**) permits you to make a claim or file a lawsuit against

a careless driver for any and all personal injuries. That is, you decide whether you wish to pursue a claim, not the insurance company.

Should you choose the limitation on lawsuit option, the careless drivers who cause accidents will benefit because they may have no responsibility for your economic loss or your personal injuries. The insurance companies who provide coverage for careless drivers will benefit because they may not have to pay any monetary damage for your injuries. Accordingly, choose the no limitation on lawsuit option.

Review your auto insurance policy information with your attorney who will provide you with appropriate information regarding the coverage that you currently have and your options to increase coverage to protect you and your family. For example, you must specifically name all resident relatives, employees and all other drivers as named insureds so that they can receive the same amount of uninsured/underinsured motorist coverage that you have purchased for yourself. This simple fact may be overlooked by most motorists.

Purchase liability coverage and uninsured/underinsured motorist coverage with single limits of \$500,000 or the highest limits you can afford.

In certain circumstances, you can purchase a personal catastrophic liability umbrella policy at a reasonable cost that

will provide you with additional coverage if a claim is made against you or any resident family member sustained by another person. We strongly recommend that you purchase a personal catastrophic umbrella policy with limits of \$1,000,000 which is offered by some insurance companies in New Jersey.

Do not wait until the renewal of your existing policy to discuss increasing the coverage benefits to you and your family. Contact your auto insurance company immediately to discuss quotes for increasing your liability and underinsurance coverage. It will send you a coverage selection form and you must sign the form and return it to your insurance agent or insurance company.

In summary, choose a standard policy with personal injury protection benefits of at least \$250,000 with the no limitation in lawsuit option and a single limit coverage of at least \$500,000. Be sure that the insurance company provides you with underinsurance/uninsured coverage for the same \$500,000 limit. You can confirm these coverage selections on the declaration page of your insurance policy.

Once an accident has happened it is too late to change the coverages on your policy. Protect your family now in order to avoid a lack of coverage in the future.

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