

Verdict Against Insurer is Nine Times the Settlement Offer for Uninsured Motorist Claim

In January 2006, John Smith (not his real name) was driving westbound on a residential road in south Florida. John was wearing his seatbelt and driving in the right-hand lane at the posted speed limit. Heading east toward John on the same road was a pick-up truck driven at a high rate of speed by 22-year-old Sam Jones (not his real name). A parked car was on the side of the eastbound lane, and the speeding pick-up truck suddenly swerved around the parked car and into John's lane. Realizing almost immediately that he could not avoid the oncoming truck, John slammed on the brakes and brought his car to a complete stop. The truck, leaving long skid marks on the surface of the road, slammed head-on into John's car. The front-end of John's car was nearly destroyed. Property damages were later estimated in excess of \$13,000.

The steering wheel and steering column crushed into John's head, chest, and abdomen, breaking six teeth and causing immediate pain in his back and abdomen. Police were called to the scene of the accident, and an ambulance rushed John to a nearby hospital for emergency examination. The examination report recorded symptoms including headaches; pain in his neck, lower back, left arm and hand; difficulty grasping objects; and numbness in his limbs.

John Smith, 56 years of age, is a well-known hair stylist who owns a successful salon in south Florida. He worked long days to make his business thrive. When he was not at work, he enjoyed a very active life at home with his wife, Jane, and their two young children. Following the accident, John was referred to several doctors in an effort to find some relief from his pain, and improvement in his condition. In April 2006, an extensive examination by a neurologist revealed a herniated disk at C6-7 and herniated vs. bulging



discs at C3-4 and C5-6 in his spine, and damage to his optic nerve. Doctors repeatedly recommended surgery on his back. John's work at the salon was now limited, performed only with the help of pain medication. He began worrying about his ability to maintain his business and the work he loved. At home, he was having difficulty reaching for items above his head, or bending down to pick up his children. The future for John appeared to be full of extensive medical expenses and reduced ability to earn a living.

Sam, the owner/driver of the pick-up truck that struck John head-on, was uninsured. There was no insurance coverage, and few, if any, assets to be claimed against the damage and destruction caused by the careless driver. Fortunately, John had purchased uninsured/underinsured motorist (UIM) coverage in his own policy with The Insurance Company (TIC – not its real name). Within a few months, John filed a claim against his own policy. TIC reviewed the claim and eventually offered far less than the policy's limit for UIM claims. John rejected the offer, and TIC began months of efforts to minimize their obligation under the policy to pay John for the damages he had suffered. The insurer tried to argue that John's back condition was the result of a preexisting degenerative condition and that he was not as debilitated as he claimed. **(Continued on page ten.)**

Heading Toward You Uninsured?

'Drive Defensively' as well as 'drive defensively'?

These pages highlight the importance of uninsured motorist coverage in your insurance policy. For more information about this on page ten.



Is the Driver Speeding Toward You Adequately Insured?

Should you 'insure defensively' as well as 'drive defensively'?

The two cases described on the previous two pages and this page highlight the importance of purchasing uninsured and underinsured motorist coverage in your insurance policy. A study conducted by the Insurance Research Council and published by the Insurance Information Institute (III) revealed that nearly one in four Florida drivers may be driving without insurance, and that these numbers will likely rise. (Florida had the fifth highest number of uninsured drivers in the 2007 study of all states.) The study found a strong correlation between the number of uninsured motorists and the unemployment rate. Florida law requires drivers to carry automobile insurance, and the driver may be fined or lose their license, vehicle registration, and vehicle tag if caught driving without the insurance. However, the economics of unemployment (or underemployment) lead drivers to take the risk and violate the law. This creates a risk not only for themselves, but for other drivers.

Responsible drivers comply with the various state laws requiring automobile insurance, and they protect themselves from uninsured drivers by adding insurance to protect them from drivers who do not comply with the law. ♦

Visit [Florida Insurance Council's website](http://www.flains.org) for information on the study, and talk to your insurance provider about the need for coverage.

www.flains.org

Couple battles insurance company for uninsured/underinsured motorist protection

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Neither the driver responsible for the crash, nor the owner of the vehicle, had sufficient insurance coverage to compensate Hilda and Gunter for the extensive injuries they suffered. Fortunately, the couple had purchased uninsured/underinsured motorist (UIM) coverage in their policy with The Hartford Insurance Company. The Bloys filed a claim under their policy with The Hartford. While The Hartford admitted that the driver of the SUV was negligent, they offered the Bloys very limited compensation, arguing the severity of Hilda's and Gunter's injuries. The couple asked SDSBS attorney **Sia Baker-Barnes** to represent them in an action against The Hartford Insurance Company. After a thorough investigation of the Bloys' situation, which included expert medical testimony, Ms. Baker-Barnes demonstrated the severity of the injuries suffered by Hilda and Gunter Bloy. The Hartford Insurance Company was compelled to admit that those severe injuries were caused by the collision. Just days before trial, The Hartford Insurance Company agreed to pay the Bloys \$460,000 for their injuries. Hilda and Gunter Bloy take comfort in knowing that they will not lose their home, and that they will be able to continue to provide support for their son. ♦

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TIC demanded numerous additional medical examinations, and even conducted surveillance of John, filming him at work in his salon and getting in and out of his car. TIC attempted to malign John's credibility by pointing at inconsistencies in his medical records. The delaying tactics went on for months.

Eventually, John sought representation by SDSBS attorneys **Darryl Lewis** and **Ed Ricci**. After repeated attempts to reach a settlement with the insurance company, the attorneys filed a civil action against TIC charging that the company was acting in bad faith and was obligated to provide a reasonable response to John's claims under his policy. On November 10, 2010, a jury returned a verdict in John's favor for an amount four times greater than the policy's limits, and nine times greater than the settlement offer that had been rejected. ♦