



Are You Missing Out on State Mandated Auto Insurance Benefits?

Better auto insurance provisions for Underinsured Motorist (UIM) and Personal Injury Protection (PIP) are in effect, but only if your policy has been started or renewed after January 1, 2016. Those better provisions include “get what you pay for” UIM benefits (sometimes called “stacking”) and two years of PIP medical benefits (instead of one year). Some Oregonians are missing out on these



improved coverages simply because they are still under their pre-2016 policies. If you or any of your clients are in that category, you might want to give your insurance agent or company a call. ■

Brain Bucket Brigade: Bike Helmet Giveaways Continue

Corson & Johnson’s efforts to help protect school children from head injuries while bicycling continues, with recent bike helmet giveaways at Meadow View elementary school in the Bethel School District and at Adams elementary school in the Eugene 4J District. We are working with the people at Bicycle Way of Life to provide bike helmets to children whose families cannot afford them. Each child is individually fitted for their helmet. ■

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Corson & Johnson is part of a national effort, **The Law & You**, which helps answer questions regarding our legal system and how it works for consumers. If you have any questions or would like more information, please **CONTACT US**.

Anticipatory Release Law Still Evolving in Oregon

Many businesses attempt to immunize themselves from the consequences of their future misconduct by using language that purports to give them the right to harm others without being held accountable. Sometimes those waiver or release provisions are on the back of tickets or stubs.

Oregon is still working through the implications of *Bagley v. Mt. Bachelor, Inc.*, 356 Or 543 (2014), in which the Oregon Supreme Court decided that the liability release on the back of a season ticket purchased by 17-year-old Myles Bagley was unconscionable. Bagley was paralyzed after going off a jump in a terrain park that he claimed was negligently constructed by Mt. Bachelor. While Oregon statutes protect ski area operators from the inherent risks of the sport, negligent terrain park construction is not such an inherent risk. The Oregon Supreme Court concluded that this was not an agreement between equals and that Mt. Bachelor exercised its superior bargaining strength by requiring its patrons “to sign an anticipatory release on a take-it-or-leave-it basis as a condition of using its facilities.”

Some business attorneys have been modifying anticipatory releases, trying to find a better compromise between public policy concerns and their client’s financial interests. The ski industry tried a different approach, pushing a bill in the last session to create broader immunity for ski resorts. The bill specifically sought to expand the Oregon Ski Safety Act to include terrain parks and the “movement of snow” to create such terrain parks as some of the “inherent risks of skiing” for which ski resorts would be immune from liability.

The bill failed to pass. ■

Recent Cases

Pedestrian Injury Case Results in UIM Claim and No Medical Insurance Reimbursement

We represented an Oregon City woman who was struck when jogging in her neighborhood. She was at the corner of an intersection when a driver approached and appeared to look her direction. She then entered the crosswalk and was jogging across when the driver pulled forward and then accelerated into her. She suffered a knee injury. We settled her claim for the policy limits of the driver’s insurance, and also pursued a claim for her underinsured motorist (UIM) benefits with her own insurer, settling for the limits of her UIM coverage. As part of the negotiated settlement, she was not required to reimburse her insurer for the medical payments it had made.

The frequency of people being injured while using crosswalks prompted our firm to sponsor a public service announcement on this subject:

<http://www.corsonjohnsonlaw.com/insurance-reimbursement-obligations/> ■

Wrongful Death Caused by Exhausted Tow Truck Driver

We’ve all heard, “15 minutes could save you....” If GEICO had paid its \$100,000 insurance policy to protect one of its policyholders, it would have saved the company a lot. A successful trial against the insurance company for failing to protect its insured was in 2015, but post-verdict motions and negotiations continued well into 2016. After four mediations, the case for the insured driver against his own insurance company was resolved under a confidential settlement agreement. ■

Recent Cases *(continued)*

GEICO Insurance “Bad Faith” Trial Update

A pedestrian who was crossing the street in a marked crosswalk with the right of way was struck by a negligent underinsured driver. She suffered a traumatic brain injury, a fractured foot, and a labral tear in her hip that caused a permanent limp. The driver was cited at the scene for failing to yield to a pedestrian in a crosswalk. We settled with the underinsured driver for the full policy limits, but it was insufficient to compensate the pedestrian for the harm she suffered. The pedestrian’s own insurance company initially refused to pay the underinsured motorist insurance benefits to her. We filed the case and eventually settled the case at a judicial settlement conference. ■

Marathon Winner Prevails Against Negligent Driver and Insurance Company

An active runner and bicyclist was commuting by bicycle when a pickup truck ran a stop sign and drove into the bike lane. The truck struck the bicyclist, severely fracturing his forearm and causing permanent injuries. We settled the case against the driver for the driver’s policy limits, but that was insufficient to compensate the bicyclist for the full harm he suffered. We then settled a claim against the bicyclist’s own insurance company for the full UIM benefits available.

Absent collisions, bicycling is generally recognized as a healthy activity. And bicycle commuters cut down on fossil fuel use and pollution. But prejudices against bicyclists persist with some motorists, which prompted us to sponsor a public service announcement on Oregon bicycle laws <http://www.corsonjohnsonlaw.com/law-and-you-law-podcast/oregon-bicycle-law/> ■