

**PENNSYLVANIA ASSOCIATION
FOR JUSTICE BIG AUTO
UNINSURED AND
UNDERINSURED MOTORIST
UPDATE 2009**

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EXHAUSTION OF BENEFITS

NATIONWIDE v. SCHNEIDER

p.686

DO NOT NEED TO EXHAUST FIRST
LEVEL BEFORE GOING TO SECOND
LEVEL.



FOOTNOTE 8

- ...the designated specialist has advised that it has not gained expertise in the matter which is clearly subject to its province.
- Although we lack the tools to test the Department's assertion empirically, the agency's lack of relevant expertise diminishes our confidence...



**STACKING OF UNINSURED AND
UNDERINSURED MOTORIST
BENEFITS UNDER SECTION
1738**



SET-OFFS/OTHER INSURANCE

GENERETTE v. DONEGAL

p. 678

1. You Are not Stacking When going from Friends Car to Your Personal Car.
2. “Other Insurance Clause” Violates Public Policy.



SACKETT v. NATIONWIDE

supplement

Trial Court revisits December 2008



STATE AUTO v. PRO DESIGN

p. 677

- Adding 2 vehicles to original single car policy
- Commercial/Personal Vehicle
- Third Circuit **REVERSES** May 12, 2009

SECTION 1734 WRITTEN
REQUEST FOR LOWER
LIMITS



RECENT ISSUES

- Whether the application is sufficient to meet the requirement of a sign down under Section 1734?



RECENT 1734 CASES

- TRAVELERS v. PAULINE - p. 674
- BRETHREN MUTUAL v. TRIBOSKI-GRAY - p. 675
- ERIE INS. EXCH. V. LARRIMORE – p. 676



WHAT IS "MOTOR VEHICLE"

- YUNGWIRTH (ATV) - p. 684
- BURDICK (DIRT BIKE) - p. 685



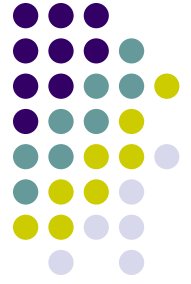
REJECTION OF UNINSURED AND UNDERINSURED MOTORIST BENEFITS UNDER SECTION 1731



TOTH v. DONEGAL COMPANIES
p. 673

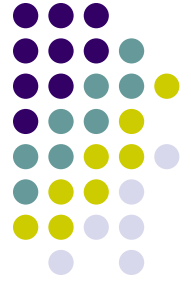
EXCLUSIONS

HOUSEHOLD



- BAKER – Supreme Court heard oral argument in September 2008. - p. 680
- AYERS – Petition for Allowance filed and then HELD pending decision in Baker.

BAKER ISSUE ACCEPTED



- Whether section 1738(a) of the MVFRL precludes the application of the so called "household exclusion" to prevent inter-policy UIM stacking when there has been no valid waiver of stacking by the insured?

REGULAR USE

- BRINK - p. 684
- WILLIAMS (First Responders) – Petition for Allowance Pending in Supreme Court.
- p. 680

POST –KOKEN CASES

- WILLETT - p. 696
- GUNN v. THE AUTOMOTIVE INS. - p. 697
- MOYER v. HARRIGAN/JANNONE .
McCOOEY - p. 697
- O'HARA v. LIBERTY - p. 699



OTHER BENEFITS/PAID OR PAYABLE

- TANNENBAUM – Pending in Supreme Court - p. 691
- PUSL – Pending in Superior Court - p. 688
- GEORGE v. CIGNA GROUP - p. 689
- ORZEL v. MORGAN - p. 690



CAN UIM BIND THIRD PARTY CLAIM?

- CATROPPIA v. CARLTON - p. 687



QUALIFICATIONS OF “INSURED”

- KALINOSKI - p. 670
- WERYHA - p. 672
- RHEIN - p. 671

THE END – SEE YA NEXT YEAR!

