

## PUBLICATION UPDATE

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# California Uninsured Motorist Law

Publication 80272 Release 13

June 2012

## HIGHLIGHTS

**A number of significant developments have been covered in Release 13 of California Uninsured Motorist Law, including:**

- **Recent Cases.** Throughout the publication, recent California Supreme Court and lower court cases have been fully integrated into the text.
- **Revised Sections.** A number of sections throughout the publication have been substantially revised or rewritten in their entirety. These sections are noted below.

### Revised Sections:

#### Chapter 4 Persons Covered

*Section 4.31 Scope of Coverage: Named Insured and Family.* This subsection has been substantially revised to expand and clarify the discussion of Insurance Code section 11580.2(b), which mandates coverage if the named insured suffers bodily injury while he or she is an occupant of a motor vehicle or otherwise.

#### Chapter 5 Insured Motor Vehicle

*Section 5.20 Described Vehicle.* The analysis in this subsection has been expanded on the topic of the interpretation of the exclusionary clause in Insurance Code section 11580.2, which is designed to prevent the coverage of one policy from extending to accidents involving other owned but uninsured vehicles, and reflects the theory that each motor vehicle should carry its own liability insurance and uninsured motorist coverage.

#### Chapter 6 Uninsured Motor Vehicle

*Section 6.73 Exhaustion by Payment of Claims to Other Victims.* This section has been significantly rewritten to expand on the analysis of whether an injured party is entitled to uninsured benefits under his or her own policy when the proceeds of the tortfeasor's policy have been exhausted by payment of claims to other victims.

#### Chapter 11 Underinsured Coverage: Motor Vehicle

*Section 11.20 Definition of Underinsured Motor Vehicle.* This section expands on the

existing discussion of the statutory definition of “underinsured motor vehicle” and the courts’ efforts to determine the circumstances under which underinsured motorist coverage applies.

### **Chapter 15 Reductions from Loss Payable**

*Section 15.50 The Collateral Source Rule.* This section has been revised in its entirety to report on the recent decision by the California Supreme Court in *Howell v. Hamilton Meats & Provisions* (2011) 52 Cal. 4th 541, 129 Cal. Rptr. 3d 325, 257 P.3d 1130.

### **Chapter 19 Arbitration**

*Section 19.20 Waiver of Arbitration.* This section has been expanded to address the circumstances under which the courts may find a party has waived various rights with respect to arbitration. Similarly, this section

analyzes the grounds under which the courts can deny a party’s efforts to assert a waiver on the part of the opponent.

### **Chapter 22 Judicial Review of Awards of Arbitrators**

*Section 22.21 Grounds for Vacating Award.* This section has been rewritten in its entirety. The new section addresses the statutory grounds under which the court can vacate an arbitration award. Much of the new discussion focuses on whether the arbitrator has exceeded his or her authority as an arbitrator or whether a real or perceived conflict of interest exists that might possibly prejudice one of the arbitrating parties. The new section analyzes the recent decision by the California Court of Appeals, Second Appellate District, in *Kelly Sutherlin McLeod Architecture, Inc. v. Schneickert* (2011) 194 Cal. App. 4th 519, 125 Cal. Rptr. 3d 83, \_\_\_\_ P.3d \_\_\_\_.

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