



Personal Injury Protection Insurance Gone Wrong:

How Lawyers are Profiting at the Expense of Florida Drivers

The Issue

No fault “personal injury protection” (PIP) automobile insurance systems are intended to ensure that accident victims receive prompt compensation for their medical bills by eliminating the need to prove who caused the crash. Under Florida law, all drivers are required to carry PIP insurance. Unfortunately, lawsuits over medical bills are rampant and becoming only more frequent. Under the PIP system, attorneys routinely receive extraordinary fees to fight over nominal recoveries for their clients. Lawyers literally sue over single dollars and change because they are enticed by the promise of huge fees. As a result, Florida drivers pick up the tab with the fourth-highest automobile insurance premiums in the nation.

Background

Florida’s PIP system went into effect in 1972. All Florida drivers are required to carry PIP insurance. PIP is intended to provide prompt payment of up to \$10,000 from the plaintiff’s own insurer regardless of fault for the insured, relatives residing in the same household, persons operating the insured vehicle, passengers inside the insured vehicle, and persons struck by the insured vehicle. The PIP system pays 80 percent of reasonable medical expenses, 60 percent of loss of income, 100 percent of replacement services, plus a \$5,000 death benefit. PIP constitutes about a quarter of a Florida driver’s total insurance premium.

Although those who are injured in accidents are limited to recovering \$10,000 under the PIP system for such out of pocket losses as medical bills and lost wages, their attorneys operate under no such constraint. Florida courts routinely permit lawyers to charge for hundreds of hours of work, at rates in the \$375 to \$425 per hour range, for noncomplex PIP cases that are determined without consideration of fault. To make matters worse, some Florida courts “enhance” an attorneys’ fee that already dwarfs the client’s compensation through applying a “contingency risk multiplier.” Contingency fee risk multipliers were meant for high-risk cases such as those that break new legal ground or are evidence-intensive. It was not intended for no-fault cases with predictable outcomes. When applied in the PIP context, the multiplier rewards the bringing of meritless cases and provides a windfall to prevailing plaintiffs’ attorneys.

The Solution

The Legislature should pass HB 119 by Rep. Boyd, which removes incentives for attorneys to take advantage of the system by: (1) providing that attorneys’ fees in PIP cases are to be determined without the use of a contingency risk multiplier, and (2) limiting attorneys’ fees to the lesser of: (a) the actual fee incurred based upon a rate not to exceed \$200 per hour, or (b) \$5,000 for any disputed amount less than \$500; \$10,000 for any disputed amount of \$500 or more and less than \$5,000; \$15,000 for any disputed amount of more than \$5,000; and – in a class action – the lesser of \$50,000 or three times the disputed amount.