Thursday, September 18, 2008

THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

A drunk can crash into you, but only have to fix your car

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When the New York State Legislature was sold a bill of goods in the early 1970s, they passed a no-fault law thanks to numerous promises made by the insurance industry.

What might have once been a good concept has slowly eroded into a statutory and regulatory nightmare that delivers anything but what was originally promised. The law also lets a drunk have immunity most of the time after inflicting injuries.

You see, in the early 1970s, the Legislature was promised that all drivers and passengers of covered vehicles would never again have to worry about receiving lost wages, adequate and almost unlimited medical care — there were limits, but they were extremely generous when initially proposed. Legislators also were told that, like a good neighbor, the people with good hands could be trusted to help us. After deconstructing a concept that sounded logical more than three decades ago, we are left with an absolute mess. The bottom line is this: Today, a drunk driver could crash a tractor trailer into your car, which is lawfully stopped at a red light, cause you excruciating pain and the inability to even get out of bed for 85 days and wind up owing you nothing but the cost to repair your vehicle.

I constantly strive for understatement when writing my columns, but the best I can do regarding such a scheme are the words "egregious" and "unconscionable."

To make matters worse, the insurance industry has manipulated the system so that now companies need only find a doctor somewhere to render an opinion that the injuries were not, in fact, caused by the subject crash. You'd be amazed at what your older medical records contain, and how easily a past comment to your doctor about a trivial ache or pain can later be used to stick it to you.

Recently, a colleague of mine who is an excellent trial lawyer, was in the midst of a motor vehicle trial when a doctor from Long Island took the stand to "opine" that the fracture caused in the crash was actually 25 years old. Despite his excellence as a trial attorney, the jury believed the doctor, without regarding the fact that he never even examined the injured plaintiff but instead merely reviewed some medical records.

I guess the theory we're being sold is that good treating physicians who work hard every day to help their injured patients to recover should be second-guessed by whomever is willing to express the right opinion for the right fee. Again, the word "unconscionable" creeps back into my mind.

To make matters worse, a no-fault carrier can now, by use of that same physician or others of similarly questionable repute, use the "expert's" report to retroactively deny treating physicians' payments for multiple visits and treatments rendered in good faith by that physician. Doctors aren't paid a reasonable rate for their services when they ARE approved. And if that weren't horrible enough, now the insurer you've paid in good faith for years or decades, can deny your benefits with a relatively new approach: Get a doctor somewhere — anywhere — to say that, although they must admit the injuries were caused by the collision, you really won't benefit from more treatment. They will, therefore, deny you payment for medical care that you and your doctor believe to be essential — "maximum medical improvement." So much for your paying premiums all of those years.

Such practices have to stop. Taken to the lowest common denominator, the accounting term FIFO — first in, first out — slowly has been corrupted into FINO — forever in, never out). They just want to keep it all.

I can't stand the thought that my wife, my child, your father or mother, my paralegal or my friends are worth less than the cost of a rear bumper.

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