



## Auto Insurance and Lawsuits

Florida's no-fault law was originally intended to reduce the number of automobile accident related lawsuits in Florida courts. But the law is having the opposite effect. Opportunistic lawyers, motivated by huge awards unique to the no-fault system, have manipulated the system to reduce the effectiveness of the no-fault threshold in reducing automobile accident related lawsuits. The law has been abused to such a point where the no-fault provision is actually INCREASING the occurrence and severity of automobile accident litigation in Florida.

### Attorneys Involved in Most Auto Accidents

- The current no-fault system has done little to reduce attorney involvement in automobile accident claims. In no-fault claims attorney involvement has actually increased.
  - ✓ Seven in ten (69%) of injured bodily injury claimants in Florida hire an attorney.
  - ✓ In no-fault claims, claimants hiring attorneys has increased from 33% in 1997 to 45% in 2005, according to the 2006 IRC study.

### Outrageous Awards

- Minimal disputes can turn into big pay-days for opportunistic personal injury lawyers. In one of many egregious examples, an attorney walked away with \$766,000 over a disputed medical bill of only \$7,402 (Kraengel v. State Farm).
- Faced with the risk of outrageous awards and drawn out trials, insurance companies settle suits to avoid the time and expense of going to court.
- The Florida no-fault system also mandates "one-way" inflated attorney awards that create an incentive to sue. Not only must an insurer pay all attorney fees if they lose the case, but the no-fault law also creates inflated awards for lawyers through a contingency fee multiplier award. The chance of a big pay day creates an enormous incentive for lawyers to file suit, even in the most trivial disputes.

## **Ineffective Threshold**

- Tempted by the inflated awards in no-fault lawsuits, lawyers have manipulated the system to steadily erode the effectiveness of the no-fault threshold at warding off lawsuits.
- The no-fault law established a so called “verbal threshold” (permanent injury within a reasonable degree of medical probability) that must be overcome before an injured motorist could file suit to recover pain and suffering damages. This threshold was intended to keep the majority of automobile accident related claims from going to court and in return injured motorists would have their accident related expenses paid quickly without regard to who caused the accident. However, the threshold has been dramatically eroded over the years.
- Florida’s 2000 Statewide Grand Jury Report on No-Fault summed up the problem: “Unfortunately, a number of greedy and unscrupulous legal and medical professionals have turned that \$10,000 coverage into their own personal slush fund....”
- According to a 2006 IRC study, the no-fault threshold is increasingly exceeded, therefore opening the door for more claims to be heard in court. The study found that in 2005, 50% of injured claimants exceeded the threshold, up from 42% in 2002, and 34% in 1997.
- Unethical lawyers and doctors have created referral networks to exploit no-fault benefits to subsidize the build up of bodily injury claims. Unethical lawyers will often refer clients to a doctor or chiropractor they know will diagnose their client with permanent injuries, allowing them to sue for pain and suffering therefore entitling them to more money than medical reimbursement alone. This drastically increases their claim over the threshold, making the threshold ineffective at preventing litigation. The lawyers walk away with a large percentage of the award and the medical provider gets the full pay-out from the \$10,000 no-fault claim.