

# Siferd & McCluskey LPA

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## Limits Limits Limits

I have lived my life, and I have fought my battles, not against the weak and the poor – anybody can do that – but against injustice, against oppression; and I have asked no odds from them, and I never shall.

**Clarence Darrow**

## Insurance Limits and You

Our office has been taking in many cases where insurance limits are a problem for the injured party. Here is our advice.

First a bit of history. It used to be required by law for an insurance company to offer uninsured/underinsured coverage as part of the auto liability policy. Uninsured/underinsured coverages protect you in the event you are negligently injured by another person with low insurance limits.

How does uninsured/underinsured work? As an example, suppose you have uninsured/underinsured coverage of \$250,000 and are injured in a wreck where the other party has \$25,000 in liability coverage. Suppose your bills are \$50,000. The other party's insurer will probably pay its limits of \$25,000 and then you can look to your company for additional coverage of up to \$225,000 total for your damages. Your uninsured/underinsured coverage protects you.

The insurance companies lobbied in Columbus, and now no longer have to write those coverages as part of the liability policy. We therefore get clients who are hurt, where the other party is at fault with little or no insurance, and the client looks at their policy, only to discover that the uninsured/underinsured coverage was dropped by the agent.

They did not understand the ramifications and they now owe large medical bills and have no source of recovery.

The second part of the puzzle is the cost of medical care. We get cases in periodically where the medical bills exceed \$100,000. Many people commonly carry only \$100,000 in liability insurance and also their uninsured/underinsured is at the same amount.

We therefore encourage clients to carry at least \$250,000 in coverage for uninsured/underinsured situations.

## Caps on Lawsuits

When we talk about caps on lawsuits, we are not talking about hats, but about the limits on damages which are recoverable.

Suppose a drunk driver injures a child, say a spinal injury, which will cause the child pain for the rest of his life. The maximum he can recover for the pain is \$350,000 – no more.

What are the ramifications of such limits. The limits essentially say that the door to the courthouse closes at \$350,000. Above that, there can be no recovery.

The limits will not reduce trials, but will result in more trials. This has been the experience in other states with caps. On the one side is the injured party who is gambling everything with a trial, while on the other side is an insurance company which has its liability capped. The insurance company may suspect that it will have to pay up to the cap, but why pay when that is the limit, and it might get lucky and pay less? In no event will it have to pay more.

It is like a poker game where one party has a limited risk, opposing the other party who has to risk everything. The game is no longer fair.

The Ohio Supreme Court recently ruled that caps are constitutional in a 72 page opinion. Most opinions are 10 or less pages. Justice Paul Pfeiffer dissented. The other judges went to great lengths to explain why they were not closing the courthouse door to severely injured parties. It was almost like “they protest too much “ to paraphrase Shakespeare.

Interestingly there are no limits or caps in lawsuits between corporations. Now one can say that corporations cannot suffer pain. While pain may be intangible, such things as goodwill for a corporation are also intangible and are not limited.

## Motorcycles Will be Back on the Road

As the weather warms motorcycles will be back on the road. Gas prices are high, and the enjoyment of riding, make this form of transportation more and more popular.

Motorcycle accidents will once again be reported in the local newspapers. Drivers of cars and larger vehicles seem to have an instinctive blindness to the right-of-way of a motorcycle.

We want to warn readers of the obvious – honor the right-of-way of a motorcycle as you would honor the right-of-way of an Abrams tank. Make a conscious decision to avoid interfering with the right-of-way of motorcycles. Remember that a motorcycle is a motor vehicle and has the same rights on the road as any other motor vehicle.

**Siferd & McCluskey**

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**News from Siferd & McCluskey**

This newsletter will inform you of some current legal developments, as well as providing some humor to make your day a little better. We hope that you enjoy it.

➔ **Motorcycles Back on the Road**

➔ **Humor – A Meaningful Conversation**

➔ **Insurance Limits and You**

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➔ **Caps on Lawsuits**

**A Meaningful Conversation**

A farmer walked into an attorney's office wanting to file for a divorce. The attorney asked, "May I help you?"

The farmer said, "Yea, I want to get one of those dayvorce's." The attorney said, "well do you have any grounds?"

The farmer said, "Yea, I got about 140 acres." The attorney said, "No, you don't understand,

do you have a case?" The farmer said, "No, I don't have a Case, but I have a John Deere." The attorney said, "No you don't understand, I mean do you have a grudge?"

The farmer said, "Yea I got a grudge, that's where I park my John Deere." The attorney said, "No sir, I mean do you have a suit?" The farmer said, "Yes sir, I got a suit. I wear it to church on Sundays."

The exasperated attorney said, "Well sir, does your wife beat you up or anything?" The farmer said, "No sir, we both get up about 4:30."

Finally, the attorney says, "Okay, let me put it this way. WHY DO YOU WANT A DAYVORCE?" And the farmer says, "Well, I can never have a meaningful conversation with her."