

*Hill v. American Family Mutual Insurance Company*, 150 Idaho 619 (2011)

“As this Court observed before the Legislature implemented the UIM mandate, many drivers in this state “may well be in a better position if a tortfeasor carries no insurance whatsoever rather than carrying the minimum coverage mandated by the statute,” and that **“the matter deserves legislative attention.”** *Hill v. American Family Mutual Insurance Company*, 150 Idaho 619, 625 (2011) citing *Blackburn v. State Farm*, 108 Idaho 85, p. 90 (1985). [Emphasis added]

“The Legislature has required that insurers offer UIM coverage to all motorists, not UIM coverage conditioned on totally depleting the tortfeasor’s policy. Exhaustion clauses **have no purpose but to dilute Idahoan’s protection against underinsured drivers and to prevent insureds from collecting legitimate claims. They are a product of the insurance company’s sophistication and bargaining power.”** *Hill v. American Family Mutual Insurance Company*, 150 Idaho 619, 634 (2011) [Emphasis added]

*Wood v. Farmers Insurance Co. of Idaho*, 166 Idaho 43, 46 (2019)

(\$100,000 of liability coverage with \$100,000 of UIM coverage)

“The bottom line is that the legislative history and text of Idaho Code section 41-2502 demonstrate that the Idaho Legislature knew that insurers would offer different kinds of UIM coverage, decided not to require insurers to offer only excess-type UIM coverage, and chose to allow the use of offset-type UIM coverage.” *Wood v. Farmers Insurance Co. of Idaho*, 166 Idaho 43, 46 (2019) [Emphasis in original]

*Pena v. Viking Insurance Co.* Docket No. 48379, p. 7-8 Feb 1, 2022)

(\$25,000 of minimum limits liability coverage with \$25,000 of UIM coverage)

“The Crux of the issue before us is whether an insurance contract that offers UIM coverage in the same minimum amount as what is legally required for liability insurance renders the UIM coverage illusory. We hold that when minimum-limits UIM is offered, paid for, and then excluded away, as Viking did her, it is illusory. . . . [A] policy is illusory if it appears that if any actual coverage does exist it is extremely minimal and affords no realistic protection to any group or class of injured persons. *Pena v. Viking Insurance Co.* Docket No. 48379, p. 7-8 Feb 1, 2022)

“Recognizing that public policy, and our duty to “scrupulously guard such benefits for Idaho citizens,” we conclude that Viking’s policy, as written or \$25,000 minimum limits coverage, is illusory under Idaho’s public policy to protect those injured by underinsured motorists. *Pena v. Viking Insurance Co.* Docket No. 48379, p. 10 Feb 1, 2022), citing *Hill v. American Family Mutual Insurance Company*, 150 Idaho 619 (2011)