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Raised Bill No. 954
Public Hearing: 2-26-13

TO: Members of the Insurance and Real Estate Committee

FROM: Connecticut Trial Lawyers Association (CTLA)

DATE: February 26, 2013

**RE: Support for Raised Bill No. 954 – An Act Concerning
Payments Made Under Uninsured and Underinsured
Motorist Coverage**

The Connecticut Trial Lawyers Association respectfully urges the members of the Connecticut General Assembly to pass Raised Bill No. 954. The purpose of this bill is to ensure that consumers get what they pay for when they purchase uninsured or underinsured motorist insurance in Connecticut.

Under the current state of law, an underinsured motorist carrier is entitled to claim a reduction in its policy limits for any payments made to the injured party pursuant to the liability policy issued to the person responsible for the accident. **The proposed bill does not seek to change this rule.**

However, the Connecticut Appellate Court has interpreted this rule as allowing an underinsured motorist carrier to also claim a credit for payments made to individuals *other than the claimant* by the liability carrier for the person responsible for the accident. *Allstate v. Lenda*, 34 Conn. App. 444 (1994).

The result of this ruling is that the claimant's underinsured motorist coverage can be reduced by payments he never received, which were paid by the liability carrier for the responsible party to other individuals, totally unrelated to the claimant. As a result of the ruling, the consumer is being deprived of the full benefit of the underinsured motorist insurance that he purchased.

Take the following example. Assume five passengers are in a vehicle that is struck by another vehicle in a rear end collision. The person

responsible for the accident carries a liability policy of \$50,000. All five passengers are injured. The five passengers split up the \$50,000 policy, with each receiving \$10,000 in compensation from the liability policy of the person responsible for the accident.

Now assume further that one of those passengers has an underinsured motorist policy available to him in the amount of \$100,000. That passenger only received \$10,000 from the person responsible for the accident, so it is logical to assume that person should have a balance of \$90,000 in underinsured motorist coverage available to him.

However, that is not the way the current law operates. The current law allows the underinsured motorist carrier to claim credit not only for the \$10,000 payment made to the claimant, but also for the other \$40,000 paid to the other four claimants in the vehicle. Thus, the injured claimant is left with only \$50,000 in coverage available to him, even though he has only received \$10,000 in payments, and has purchased \$100,000 in underinsured motorist coverage.

The CTLA would respectfully submit that the Appellate Court's literal interpretation of the insurance regulation is contrary to the original intent of the statute and common sense. The rule serves to deprive the consumer of the benefit of his purchase of underinsured motorist coverage. Raised Bill No. 954 seeks to correct this injustice.

Under the Raised Bill, assuming the same hypothetical, the underinsured motorist carrier would still get credit for the \$10,000 in liability payments made to the claimant. However, the underinsured motorist carrier would not get credit for the remaining \$40,000 paid to the other individuals in the vehicle. The injured claimant would have \$90,000 of insurance coverage available to him. When this is combined with the \$10,000 liability payment, the claimant gets the full benefit of the \$100,000 coverage that he paid for, and not a penny more. The original intent of the underinsured motorist statute is fulfilled, and the consumer gets the benefit of the insurance coverage that he purchased.

Accordingly, the CTLA respectfully urges the members of the Committee to pass Raised Bill No. 954.

Thank you.

WE RESPECTFULLY URGE YOU TO PASS RAISED BILL NO. 954.