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MORE INFORMATION

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**Summary Judgment Granted to Hartford
on Inland Marine Policy**

In a case successfully litigated by Martin & Seibert, the U.S. District Court for the Northern District of West Virginia has granted summary judgment to the insurer in a commercial coverage question.

In *Bonded Carriers, Inc. v. Hartford Fire Ins. Co.*, (Civil Action No. 3:08-cv-57, decided March 20, 2009), the Court reviewed an inland marine policy issued by Hartford to a trucking company. Bonded Carriers delivered cargo to a Food Lion distribution center in Greencastle, Pa.

Per the agreement between the trucking firm and Food Lion, the carrier dropped the non-perishable cargo in a drop lot to be later unloaded by Food Lion. Upon dropping the cargo, Bonded Carriers left a bill of lading with Food Lion. The trailer later disappeared. When Bonded presented a claim for lost cargo, Hartford denied the claim finding that the terms of the bill of lading were satisfied. The District Court agreed and denied the insured’s claim.

Relevant policy language provided coverage for direct physical loss of covered property while in “the due course of transit.” By policy definition, “due course of transit” ceased upon delivery.

Finding that the bill of lading only required delivery to the distribution center, not unloading, the Court concluded Bonded Carriers had completed its delivery; thus, any loss of the cargo subsequent to delivery occurred outside the “due course of transit.” Specifically, the Court held that the liability of a carrier for damages to goods shipped through interstate commerce extinguishes upon delivery. When goods have arrived at their destination and are merely being stored prior to unloading, the goods are no longer “in transit,” the Court held.

Because no coverage existed for the loss of the cargo after delivery, summary judgment was granted to Hartford.

Court Upholds \$1 Million Punitive Damages Award

In upholding a \$1.8 million wrongful termination verdict, the West Virginia Supreme Court of Appeals has set a standard of a 5 to 1 ratio for punitive damages in cases involving “extreme negligence” or wanton disregard but with no actual intention to cause harm and in which compensatory damages are “neither negligible nor very large.” What constitutes “extreme negligence” or the boundaries of “neither negligible nor very large” however, were not defined. In cases involving actual “evil intention,” the Court held that higher ratios are not *per se* unconstitutional.

In *Peters v. Rivers Edge Mining, Inc.*, (No. 34272, W.Va., filed March 27, 2009), the Court affirmed a verdict from the Circuit Court of Boone County. The *Peters* case began as a workers’ compensation claim for which plaintiff received temporary total disability payments. When cleared to return to work, the plaintiff alleges he did not receive messages left at his mother’s residence approving his return to work. When the plaintiff did not timely return to work, he was discharged for violating his union’s collective-bargaining agreement as to two consecutive unexcused absences. The plaintiff, through his union, filed a grievance which was arbitrated with a finding of “just cause” for the termination. Thereafter, the plaintiff filed a civil suit alleging retaliatory discharge which the Court characterized as “workers’ compensation discrimination.” At trial, the jury found that plaintiff’s pursuit of workers’ compensation benefits were a “substantial or motivating factor” in his discharge and that Rivers Edge unlawfully failed to reinstate the plaintiff. The jury awarded \$885,107.00 in compensatory damages and \$1 million in punitive damages. Of the compensatory damages, \$200,000 was for “aggravation, inconvenience, humiliation, embarrassment and loss of dignity.”

Addressing each of the company’s assignments of error, the unanimous Court, in an opinion written by Justice Robin Davis, held that claims of workers’ compensation discrimination are not preempted by federal law because they do not require interpretation of collective bargaining agreements. The Court next found that collateral estoppel would not apply since the issue in the arbitration centered on the collective bargaining agreement not the factual question of why the plaintiff was terminated. Although the workers’ compensation statute is silent on certain damages, the Court found that front pay was a recoverable element of damages where reinstatement is not appropriate.

Finally, the Court considered the \$1 million punitive damages award. The Court reiterated a prior standard that it would review all punitive damages awards *de novo*. The Court commented that trial courts may reduce punitive damages awards downward due to the exclusion of inadmissible evidence that could be prejudicial to defendants such as criminal sanctions or other pending litigation.

“At the most basic level,” the Court held, “a review of an award of punitive damages involves two distinct inquiries: whether the case warrants an award of punitive damages and whether the amount of the punitive damages award is proper.”

The *Peters* Court affirmed the \$1 million punitive damages award finding they were warranted because the employer was “suspicious” of the plaintiff’s claim and had placed him under surveillance while he was off work. The Court also cited to the plaintiff’s economic losses. Moreover, the Court found that the amount of punitive damages was not excessive based upon these same acts which the Court found to be “reprehensible.”

Attorney Held Personally Liable to Medicare

The U.S. District Court for the Northern District of West Virginia has held a plaintiff's attorney personally responsible for reimbursing Medicare following a personal injury settlement.

In *U.S. v Harris*, (Civil Action No. 5:08-cv-102, N.D.W.Va., entered March 26, 2009), the Court found that plaintiff, through counsel, obtained a personal injury settlement against a ladder manufacturer. Because the plaintiff's medical bills were first paid by Medicare, the government was statutorily entitled to be reimbursed from the settlement less the plaintiff's "procurement costs." Upon settlement, Medicare advised counsel of the amount due which was neither paid nor appealed.

Consequently, the government filed a declaratory judgment action against plaintiff's counsel for reimbursement. Section 1395y(b)(2)(B)(ii) of the Social Security Act, also known as the Secondary Payer Statute, holds that the government has a right of recovery for conditional Medicare payments against any entity responsible for making the primary payment. The bodily injury settlement was considered the primary payment since it was made by the allegedly responsible party, the ladder manufacturer, regardless of whether the primary payer admitted liability.

Finding that an attorney is any entity and further finding that counsel neither paid the payment requested by the government nor appealed within the 120-day appeal period, the District Court granted summary judgment against the attorney. The Court also permitted the government to recover interest on the unpaid reimbursement.

Court Denies Writ of Prohibition - Does not address confidential settlement agreements

Whether confidential settlement agreements are discoverable remains an open question in West Virginia given the Supreme Court's denial of a Petition for Writ of Prohibition filed by Nationwide in the case of *State ex rel. Nationwide Mut. Ins. Co. v. Marks*, (No. 34615, W.Va., filed March 27, 2009).



In *Marks*, Nationwide appealed an Order from the Circuit Court of Harrison County ordering it to either produce settlement agreements to plaintiff's counsel or, if deemed confidential, to submit the agreements to the Court *in camera* with a privilege log. Nationwide took the position that the settlement agreements were not privileged, but were confidential, thus beyond the scope of permissible discovery and directly appealed the Circuit Court's Order.

The Supreme Court determined the Petition had been improvidently granted finding that Nationwide must first submit the documents to the trial court *in camera* with a commensurate privilege log. The Court analogized the issue to its recent decision of *State ex rel. Nationwide Mut. Ins. Co. v. Kaufman*, 222 W. Va. 37, 658 S.E.2d 728 (2008), wherein Nationwide objected to providing claim file materials to the plaintiff or to the trial court while an underlying claim against the insured was ongoing. The *Marks* Court found that the issue was substantially similar and that Nationwide should have produced the documents to the trial court for *in camera* review.

The Court specifically held in its *per curiam* opinion that it was not addressing the larger issue of whether confidential settlement agreements were discoverable. Martin & Seibert, L.C. represents Nationwide in this matter.

Court Upholds Summary Judgment Finding No Duty Owed

Summary judgment in favor of defendants who did not own or have any control over property where an accident occurred has been affirmed by the West Virginia Supreme Court of Appeals.

In *Conley v. Stollings, et al.*, (No. 33913, W.Va., filed March 31, 2009), the Court considered duties owed in a wrongful death claim arising from the death of a 13-year-old riding an ATV on an abandoned State road in Logan County who struck an unmarked cable stretched across the road.

The accident occurred in 2005. The road had been abandoned by the Department of Highways ten years prior and ownership of the road vested in the adjacent landowners. In addition to suing the landowners, the plaintiff's administratrix also sued prior owners of the property and Cabot Oil & Gas Corp. which used the road to access its pipeline. The Circuit Court of Kanawha County granted summary judgment to the prior landowners and Cabot because they did not own or control the property and hence had no duty to the decedent. Plaintiff argued that Cabot's use of the road and the fact it had a key to unlock the cable gave it some degree of control, thus creating liability.

On appeal, the Supreme Court affirmed summary holding: "[I]n cases dealing with premises liability we have generally adhered to the principle that liability results either from control of the subject area or from a specific wrongful act. ... "[A] defendant [generally] cannot be held liable for a defective or dangerous condition of property which it does not own, possess or control."

Court Reinstates Defense Verdict

The West Virginia Supreme Court has reversed the Circuit Court of Brooke County and has reinstated a defense verdict in a motor vehicle collision case. In *Smith v. Cross*, (No. 34147, W.Va., filed March 31, 2009), the Court also overruled prior case law finding it is in direct conflict with the longstanding duties imposed upon a jury.

In *Smith*, the defendant was slowing or stopped on a two-lane road attempting to turn left. There was a dispute as to whether the driver's left turn signal was activated. As he attempted to turn left, the plaintiff attempted to pass the defendant's vehicle and thus struck the defendant's vehicle as it turned. Plaintiff alleged the driver turning left was negligent for not looking behind him for potentially passing vehicles and for not demonstrating his intent to turn left. The jury returned a verdict in favor of the defendant which Judge Martin Gaughan set aside.



On appeal, Justice Margaret Workman, writing for a unanimous Court, held that two prior opinions of the Court on this issue were in conflict and that prior decisions also removed issues of fact from the jury. The *Smith* Court now permits juries the ability to assess the facts in cases where a driver makes a left turn and was involved in an accident with an overtaking vehicle, regardless of the circumstances.

Jobs Lost In WV Due to Verdict

Chesapeake Energy Corp. says a verdict against it in a Roane County case over natural gas royalties is one of the reasons it is moving the majority of its Charleston-based jobs. The company announced in February it will eliminate 215 of the 255 jobs in West Virginia and relocate them to its headquarters in Oklahoma City. Another reason given was a corporate reorganization.

Chesapeake's CEO, Aubrey K. McClendon, said the \$404 million Roane County verdict against Chesapeake and NiSource in 2007 and the state Supreme Court's later refusal to review the case played a "significant" role in the decision.

Justice Joseph Albright Passes Away

West Virginia Supreme Court Justice Joseph Albright passed away on March 21, 2009 following a lengthy illness. The West Virginia Constitution mandates that Governor Joe Manchin now appoint a justice to complete Justice Albright's term which expires in 2012.

Justice Albright, of Parkersburg, was a graduate of Notre Dame Law School. He was first appointed to the West Virginia Supreme Court in 1985 by then-governor Gaston Caperton to fill an unexpired term through December 1996. He was then elected to the bench in 2000 for a 12-year term and served as Chief Justice in 2005.

Justice Albright also served in the House of Delegates for a number of years culminating in serving as the 52nd Speaker of the House in 1985 and 1986.

Defense Verdict Returned in Favor of State Farm

State Farm won a defense verdict in the U.S. District Court for the Southern District of West Virginia on March 6, 2009, in what was filed as UIM/breach of contract/bad faith claims. Ultimately, only the consolidated UIM claims were tried, with the jury finding no liability against the tortfeasor who had previously settled.

In *Strickland, et al. v. State Farm Mut. Auto. Ins. Co.*, (Civil Action No. 2:07-cv-967), four West Virginia residents alleged closed head and other permanent injuries as a result of a 2003 accident which occurred in South Carolina. Civil suits were filed in South Carolina which included UIM claims against State Farm. After the liability carrier settled and mediation with State Farm was unsuccessful in South Carolina, plaintiffs then filed concurrent actions in West Virginia which were removed to federal court. The West Virginia suits, which were eventually consolidated for trial, included counts for breach of contract as well as statutory and common law "bad faith."

Following a six-day trial, a defense verdict was returned wherein the jury found no liability on the defendant driver. Judgment was then entered in favor of State Farm by U.S. District Judge Joseph Goodwin. No additional claims concerning substantially prevailed or extra-contractual damages were presented.

\$4.4 Million Fine Levied Against Johnson & Johnson for Sending Misleading Information to WV Doctors

Judge Martin Gaughan, sitting in the Circuit Court of Brooke County, has fined Johnson & Johnson and a subsidiary, Janssen Pharmaceutica, \$4.475 million for sending misleading information to West Virginia physicians about two prescription drugs.

The case was filed in 2004 by WV Attorney General Darrell McGraw under the Consumer Credit Protection Act. In an Order entered February 25, 2009, Gaughan found the defendants sent brochures on the narcotic pain patch Duragesic that the Food and Drug Administration had twice warned contained false or misleading statements. He also found the defendants' November 2003 letter on schizophrenia drug Risperdal intentionally modified the FDA's warning language and misled health care professionals.

At trial, the parties stipulated to the number or instances that could qualify as violations. 4,450 violations were found to have taken place which could have resulted in a civil penalty of up to \$22,250,000.00 had the Court imposed the maximum statutory \$5,000 per violation penalty. The Court assessed a penalty of \$5,000 per violation where the message was delivered

personally to a West Virginia doctor by a company sales representative and \$500 where the information was conveyed by letter or sales brochure.

In his Order, Gaughan held: "The defendants were twice put on notice by previous [FDA] warning letters that its promotional materials for Duragesic contained false or misleading statements; however . . . the defendants then willfully sent the false or misleading Duragesic [brochure] to West Virginia health care providers to make its medication Duragesic more appealing for sale." The order also finds, "The wording of [the defendants'] November 2003 Risperdal letter was intentionally constructed to modify the FDA's warning language and mislead health care professionals, who rely on this information when prescribing medication for their patients."

Attorney General McGraw said, "If the FDA has approved a drug for limited purposes and drug manufacturers, in pursuit of profit, market the drug for other purposes, it is false advertising that could put the health and lives of ordinary West Virginians at risk."

California Jury Awards \$10 Million for Failure to Settle

A unanimous jury in the U.S. District Court for the Central District of California awarded \$10 million in bad faith damages against Atlantic Mutual Insurance Company for failure to settle within policy limits on November 18, 2008.

Bostick v. Atlantic Mut. Ins. Co., (No. 2:04-cv-9120), arose from an accident at Gold's Gym whereby the plaintiff was rendered a quadriplegic. Bostick sued Flex, the manufacturer of the equipment he was using when he was injured, and Gold's Gym. Gold's settled, Flex refused plaintiff's \$1 million policy limits demand, and the case proceeded to trial. At trial, the plaintiff was awarded \$16.3 million in gross damages. Flex thereafter assigned its first party bad faith claim to the plaintiff.

The jury found by "clear and convincing" evidence that Atlantic Mutual breached its duty of good faith and fair dealing with "malice" or "oppression."

Federal Judge Reduces \$62 Million Punitive Damages Award

A federal judge in Texas has slashed tens of millions in punitive damages from a jury award to an insurance company last year.

U.S. District Judge Tena Campbell found that a \$62,707,000.00 award to Farm Bureau Insurance Co. was excessive. The Judge reduced the award to just over \$3.6 million, an amount equal to compensatory damages. The award stems from a 2003 lawsuit filed by Farm Bureau Insurance in which it alleged that American National Insurance Co., located in Galveston, Texas, damaged its business and misappropriated trade secrets by acquiring Farm Bureau staff. American National denied the allegations and challenged the verdict as excessive. Campbell denied American National's request for a new trial, but agreed the award was too much.

Proposal to Limit Discovery

In March, an American College of Trial Lawyers task force and the Institute for the Advancement of the American Legal System jointly recommended an overhaul to the rules of discovery to limit the amount of permissible discovery sought in civil litigation.



The joint report suggests that the current Rules of Civil Procedure are too broad in light of the manner in which most business data is now generated and maintained. The current rules permit attorneys to "drag out" disputes by demanding irrelevant and often hard-to-find data, the report suggests.

The report calls for state and federal courts to restrict discovery to the specifics of a case and limit the amount of data that can be requested after initial disclosures. Finding that the current rules, written more than 50 years ago, did not anticipate the volume of documents electronically generated, the report finds the current rules antiquated. The report concluded that the current rules have escalated legal costs unnecessarily as a result.

"In too many cases, economics rather than merits are driving whether it's tried or settled, and that's not justice," said attorney E. Osbourne Aycsue Jr., former president of the trial lawyer's group.

Among other reforms, the report also suggested setting specific requirements for testimony from expert witnesses and insuring only a single judge handles a case from beginning to end.

Rebecca Love Kourlis, executive director of the Institute which is located at the University of Denver and a former Colorado Supreme Court justice, hopes pilot programs using the proposed reforms could be under way by the end of the year.

Federal Appeals Court Upholds Punitive Damages for Stolen Email

In a case stemming from an employer's theft of e-mails from an employee's personal account, the U.S. Fourth Circuit Court of Appeals became the first circuit to hold that plaintiffs must prove actual damages to recover statutory damages under the Stored Communications Act. However, actual damages are not necessary, the Court held, to recover punitive damages or attorney's fees.



In *Van Alstyne v. Electronic Scriptorium Ltd.*, (No. 07-1892, 4th Cir., decided March 18, 2009), the Court vacated a jury award of \$175,000 against the employer and its president, but left in place a \$100,000 punitive damages award plus \$135,723.56 in attorney's fees and costs.

At trial, the plaintiff alleged the company president sexually propositioned her. She declined and pursued sexual harassment charges. During discovery, plaintiff became suspicious her private AOL account had been accessed. The company president admitted to such in his deposition. The plaintiff then pursued a separate action under the Stored Communications Act, 18 USC § 2707(a). The Act provides a private cause of action for any person aggrieved and permits a district court the ability to award equitable or declaratory relief, reasonable attorney's fees and other costs. Considering the language of the statute, the appeals court held actual damages would be required for statutory damages which are up to \$1,000 per violation. No such proof, however, is required by the statute for punitive damages or attorney's fees, the Court held.

Defense Verdict Returned Against Virginia Plaintiff Who Fought to Keep Case in West Virginia

A West Virginia case that reached the United States Supreme Court and prompted the state legislature to change venue laws has ended with a verdict in favor of the defendants.

In 2004, Bart Morris, a Virginia resident, sued Crown Equipment and Jefferds Corporation over a forklift accident that occurred in Virginia that caused the amputation of his lower left leg.

Morris filed suit in Kanawha County, West Virginia, arguing venue was proper in West Virginia because Jefferds Corp., the distributor of the forklifts in question, has an office in St. Albans.

Initially, Kanawha County Circuit Court Judge Tod Kaufman dismissed the suit for improper venue. The West Virginia Supreme Court reversed, finding the venue statute then barring out-of-state plaintiffs from filing suit in West Virginia was unconstitutional. When the Supreme Court of the United States refused the appeal, the state legislature amended the venue statute.

The case then proceeded on its merits in West Virginia and on February 2, 2009, a jury in Kanawha County ruled in favor of the defendants. The jury found the forklift was not defective at the time it was manufactured.

Magistrate Orders Personal Appearance of Zurich's Highest Ranking Executive or Legal Officer in U.S.

The U.S. District Court for the Northern District of West Virginia has issued a discovery Order compelling the personal attendance of an insurance company's "highest ranking executive officer or legal officer whose office is located in the U.S."

In *Weirton Steel Corp., Liquidating Trust v. Zurich Specialties London, LTD*, (Civil Action No. 07-cv-122, decided January 23, 2009), Magistrate Judge James Seibert granted plaintiff's motion to compel.

Finding that Zurich was "stonewalling" discovery and making general objections which are not permitted, the Court granted the plaintiff's motion to compel and then instructed plaintiff's counsel to submit an affidavit of fees and costs. Defense counsel was instructed to respond with an affidavit. The affidavit was to also include a designation of the highest ranking executive or legal officer located in the U.S. who must personally appear at the sanctions hearing scheduled for late February.

The Court specifically also held that objecting to the Order to the District Judge would not stay the Order. Zurich appealed the Magistrate Judge's rulings to District Judge Frederick P. Stamp, Jr., who on February 12, 2009, granted in part and denied in part Zurich's Motion. Judge Stamp refused to overrule Magistrate Seibert's ruling setting a hearing on attorney's fees and sanctions finding Zurich had not presented a hardship.

Magistrate Seibert ultimately rescinded his ruling concerning the personal appearance of an executive or legal officer finding neither had the information necessary "to determine the Defendant's diligence in responding to discovery."

U.S. Supreme Court to Consider Right to Appeal Discovery Orders

The Supreme Court of the United States has granted certiorari in a case which will consider the issue of whether a party may immediately appeal a discovery order compelling production of attorney-client privileged information. In *Mohawk Industries v. Carpenter*, Case Number 08-678, the Court accepted Mohawk's appeal of a decision of the 11th Circuit.

The case arose from the termination of an employee from Mohawk. The employee sought and the District Court compelled production of attorney-client privileged materials. Mohawk appealed to the 11th Circuit, which ruled it had no jurisdiction to hear the interlocutory appeal of a discovery order. Furthermore, the 11th Circuit refused to invoke the collateral order doctrine.

A decision is not anticipated until the next term of Court.

Defendant Appeals \$12 Million Verdict Due to a Juror's "Tweets"

An Arkansas building materials company and its owner have appealed a \$12.6 million verdict against them, alleging that a juror posted messages on Twitter during the trial demonstrating bias against them.

The motion was filed in Washington County, Arkansas, Circuit Court in *Deihl and Nystrom v. Wright and Stoam Holdings*. The Motion alleges a juror sent eight messages of "tweets" on his cell phone. One allegedly read in part: "oh and nobody buy Stoam. Its bad mojo and they'll probably cease to Exist, now that their wallet is 12m lighter." Another described what "Juror Jonathan" did today: "I just gave away TWELVE MILLION DOLLARS of somebody else's money."

The juror disagrees. "I didn't really do anything wrong, so it's kind of crazy that they're trying to use this to get the case thrown out," said juror Jonathan Powell. "I understand where they're coming from, they lost over \$12 million."

Powell, a 29-year-old manager at a Wal-Mart photo lab, said he tried to talk to the trial judge about what happened, but was turned away.

On April 3, 2009, the trial judge denied the motion for new trial. While the Court found the "tweets" were in bad taste," that was insufficient grounds for a new trial.



Safety Features Lead to Lesser PIP Claims

The steady incorporation of front and side airbag systems in automobiles has resulted in less significant injuries and lower claim costs. In an April Insurance Research Council report, IRC found that claimants in vehicles with front and side airbags were less likely to have serious injuries, to receive hospital treatment or to experience a period of disability. Fatalities also decreased.

The average PIP claim from vehicles with seatbelts but no airbags was \$6,994, 32% higher than claims for vehicles with front airbags and 57% higher than vehicles with front and side airbags, the report stated.

"Motor vehicles are becoming safer, and these improvements are having a noticeable impact on the seriousness of injuries and the ultimate cost of auto injury claims," said Elizabeth Sprinkel, Senior Vice President of IRC. "These favorable trends have helped offset some of the pressure caused by the accelerating cost of medical treatment for auto injuries." The study examined the type of passenger restraint system in insured vehicles in a sample of 2007 closed auto claims considering the extent of injuries and claim payments.

State Farm Wins \$15.4 Million RICO claim

State Farm obtained a \$15.4 million verdict in the Eastern District of Pennsylvania in March in a RICO suit filed against doctors alleging they operated a “mill” that inflated costs of medical care for auto accident victims.

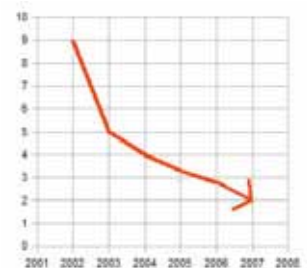
In a trial conducted in federal court, a jury awarded State Farm more than \$4 million in compensatory and \$11.4 million in punitive damages against three osteopaths, two chiropractors, and four medical service companies they were associated with. Another defendant settled confidentially prior to trial. A pharmacist was also initially sued. He plead guilty to criminal charges stemming from the same allegations, did not defend himself at the civil trial and had a default judgment entered against him. The pharmacist served jail time and now faces restitution charges.

In reaching its verdict, the jury found that the defendants were participants in a RICO conspiracy and had committed common law and statutory insurance fraud. In its pleadings, State Farm alleged the defendants schemed to inflate medical bills by systematically prescribing a litany of tests and treatments as well as prescriptions and medical equipment, and that the defendants also billed for treatments that were never provided. There were also allegations of fabricating records and falsifying the nature of injuries as well.

Economy Anticipated to Increase Percentage of Uninsured Drivers

As many as one in six drivers in the United States may be uninsured by 2010 per a study recently released by the Insurance Research Council. The anticipated increase is due to the recent economic downturn which would push the percentage of uninsured motorists to an all-time high.

Presently, those states with the highest uninsured driver estimates were New Mexico (29 percent); Mississippi (28 percent); Alabama (26 percent); Oklahoma (24 percent); and Florida (23 percent). States with the lowest uninsured driver estimates were Massachusetts (1 percent); Maine (4 percent); North Dakota (5 percent); New York (5 percent) and Vermont (6 percent). West Virginia is estimated to have 8 percent of its drivers uninsured, ranking it the 8th lowest in the country.



In its Uninsured Motorists, 2008 Edition study, IRC found a strong correlation between the percent of uninsured motorists and the unemployment rate. Therefore, based upon current unemployment rates, the percentage of uninsured motorists is expected to rise to 16.1 percent by 2010. "An increase in the number of uninsured motorists is an unfortunate consequence of the economic downturn and illustrates how virtually everyone is affected by recent economic developments," said Elizabeth A. Sprinkel, senior vice president of IRC.

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