

Most carriers use forms that are very similar to this. The problem in our case was that the insured did not initial next to either the “reject” or “select” options; he merely signed his name on the line below. And because the selection form said, “This policy will provide...Underinsured coverage...unless you select a lower amount, or no coverage, as stated in this notice,” it was our opinion that the insured was entitled to UIM coverage, even though he had been paying the non-UIM premiums under his policy. The carrier lost money it should not have lost, solely due to the drafting of the form.

The message to be taken from this situation is this: keep it simple. When it comes to “offer[ing]” UIM coverage under § 20-259.01, auto insurers have very limited obligations. They need only carry UIM insurance and make their insureds aware of the availability of this UIM coverage with a written notice. For example, if an insurer sent its insureds a hand-written postcard that read: “Happy Holidays! (By the way, [carrier name] offers underinsured motorist coverage. Call your agent for additional information.)” it likely would have satisfied its statutory obligations under § 20-259.01(B).

The written notice does not need to explain what UIM coverage is.⁶ It does not need to be translated into Spanish.⁷ It does not need to state a premium price.⁸ And it does not need to be signed or returned.⁹ It just needs to be written in such a way that a reasonable reader would understand that they could purchase UIM coverage if they wish.¹⁰

The Arizona Legislature provides auto insurers an iron-clad method of demonstrating compliance with § 20-259.01. If the insurer has its

⁶ *Tallent v. Nat’l General Ins. Co.*, 185 Ariz. 266, 268, 915 P.2d 665, 667 (1996).

⁷ *Ballesteros*, 226 Ariz. at 349 ¶ 14, 248 P.3d at 197.

⁸ *Newman*, 237 Ariz. at 36 ¶ 1, 344 P.3d at 338.

⁹ *Blevins*, 227 Ariz. at 457 ¶ 1, 258 P.3d at 275.

¹⁰ *Newman*, 237 Ariz. at 37 ¶ 9, 344 P.3d at 339.

“

In layman’s terms, this statute states that auto insurers must “be willing to provide” UIM coverage to their insureds, and they must “bring the availability of [UIM] coverage,” to their insureds’ attention in writing.

”

UIM notice pre-approved by the Arizona Department of Insurance (ADOI), it is in compliance with § 20-259.01(B).¹¹ Additionally, insurers are not required to use ADOI-approved forms,¹² and insurers can still easily satisfy their statutory obligations by providing their insureds with their own written notice of the availability of UIM coverage.

Remember, don’t overthink your underinsurance notices. Keep it simple and straightforward.

¹¹ See *Wilks v. Manabianco*, 237 Ariz. 443, 445 ¶ 7, 352 P.3d 912, 914 (2015) (noting that § 20-259.01(B) creates a “safe harbor” for insurers who use ADOI-approved forms).

¹² *Blevins*, 227 Ariz. at 460–61 ¶ 18, 258 P.3d at 278–79.



Author: **MICHAEL HALVORSON**

Mike’s diverse practice focuses on trucking and transportation defense, including commercial cargo and property loss, as well as in the areas of motor vehicle liability, product liability, dram shop and premises liability defense.

602.263.7371 | mhalvorson@jshfirm.com | jshfirm.com/mhalvorson



Author: **ALEXANDER LINDVALL**

Alex works in the firm’s Transportation, Auto, Products and General Liability Trial Group. He focuses his practice in the areas of automobile and commercial trucking defense, products liability, wrongful death and personal injury, and general liability defense.

602.263.1717 | alindvall@jshfirm.com | jshfirm.com/alindvall