II. MULTIPLE COVERAGES

A. MULTIPLE COVERAGES PRIOR TO JANUARY 1, 1994

1. Stacking In General

Prior to January 1, 1994, a claimant injured by an uninsured motorist could have been covered under more than one uninsured motorist provision. While C.G.S. Section 38a-336 and the regulations enacted thereunder did not specifically address the issue of "stacking" of uninsured motorist coverage, it was repeatedly held that a fair reading of the statute disclosed no prohibition against such aggregations.[1] However, such a result was not mandated by the statute.[2] It was well-settled case law that an insured could stack or pyramid uninsured motorist coverages to obtain more complete indemnification for their injuries,[3] and, subject to certain limitations, to determine the availability of underinsured motorist benefits.[4] To make a claim under multiple uninsured motorist coverages, the claimant must have been an insured as defined in each policy.[5]

Two situations involved the application of multiple coverages: "**interpolicy**" stacking and "**intrapolicy**" stacking.

"**Interpolicy**" stacking was the aggregation of uninsured/underinsured motorist coverages of separate and distinct policies insuring separate motor vehicles.[6] "**Intrapolicy**" stacking was the aggregation of uninsured/underinsured motorist coverages of multiple vehicles insured under one policy, where each vehicle was separately described and separate premiums were charged.[7]

The rationale underlying the concept of stacking was that it fulfilled the reasonable expectations of the parties to the insurance contract.[8] Stacking derived from a presumption that when the named insured purchased uninsured motorist coverage on more than one vehicle they intended to purchase additional protection.[9] This presumption was particularly apt when each vehicle was separately described, the coverage was separately listed, and a separate premium was charged for each described vehicle.[10] A person paying multiple premiums could reasonably expect protection from multiple coverages.[11]

However, the reasonable expectations doctrine applied only in the context of personal auto policies.[12] When an insurer included individual-oriented or family-oriented language in a business auto policy, such language served to transform the policy into a personal auto policy for purposes of stacking.[13]

2. Stacking in Underinsured Motorist Cases Prior to January 1, 1994.

In initially determining whether a tortfeasor's vehicle was underinsured, C.G.S. Section 38a-336(d) provided, in pertinent part, that:

> **"an 'underinsured motor vehicle' means a motor vehicle with respect to which the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of liability under the uninsured motorist portion of the**

policy against which claim is made . . ."
Conn. Gen. Stat. Section 38a-336(d)

Therefore, C.G.S. Section 38a-336 required that, in determining whether a motor vehicle was underinsured, the **aggregate** of the liability limits of all the tortfeasor's **policies** must be compared to the underinsured motorist coverage limit of each policy against which claim is being made.[14] If the total of the liability limits was less than the underinsured motorist limits of each individual policy, the individual policies could then be stacked.[15] This limitation applied solely to interpolicy stacking and not to intrapolicy stacking.[16]

Intrapolicy stacking was permitted in making the initial determination of whether the tortfeasor's motor vehicle is underinsured; interpolicy stacking was not permitted.[17]

3. Attempts to Limit Stacking Prior to January 1, 1994

The various policy provisions that attempted to limit an insured's ability to stack coverage under multiple policies or the same policy have been uniformly held to be invalid, since such provisions are not authorized by statute or regulation.[18]

Insurers have attempted to limit "**interpolicy**" stacking by using "other insurance" clauses.[19] Such clauses cannot be used to prevent "interpolicy" stacking, since the uninsured motorist statute and regulations do not authorize any reduction of coverage because "other insurance" exists.[20]

Insurers have also tried to limit "**intrapolicy**" stacking through the use of limitation clauses. These clauses typically provide that when the policy insures multiple vehicles, the insurer's liability is limited to the uninsured motorist coverage applicable to a single vehicle.[21] Again, such policy language is invalid, since such language is an attempt to reduce coverage that is not authorized by statute or regulation.[22]

A single-premium approach was another attempt to insurer's employed to limit "intrapolicy" stacking. Insurers began charging a single premium for uninsured motorist coverage for multiple vehicles insured under that policy, rather than charging a separate premium for each vehicle. That device had been held to be effective in prohibiting "intrapolicy" stacking,[23] when the single premium is "actuarially appropriate" and the policy language expressly prohibits stacking. The rationale behind such a result was that an insured paying a single premium cannot have an objectively reasonable expectation of stacked coverage.[24] However, coverage may be stacked even in the absence of the payment of a double premium if stacking is the reasonable expectation of the parties.[25] Such determination is fact intensive and determined on a case-by-case basis.[26]

Since insurers can reduce coverage only as permitted by statute or regulation, any provision of a private insurance contract that conflicts with these statutes or regulations are invalid and cannot prevent an insured from stacking uninsured/underinsured motorist coverages.[27]

4. Fleet Stacking

As explained, stacking was permissible within the context of personal auto policies.[28] The rationale behind the allowance of stacking was that it was within the reasonable expectations of the parties to the insurance contract.[29] The concept of stacking as an objectively reasonable expectation of the parties does not extend to "fleet insurance contracts."[30] "Fleet insurance contracts' are defined as a "fleet or garage policy, or any insurance policy covering a number of vehicles owned by a business, a governmental entity, or an institution."[31] Fleet stacking was denied because it was not credible that an insured having a fleet of vehicles could objectively and reasonably expect the coverage for each vehicle to be a multiple of the entire number of vehicles in the fleet.[32]

The ability to stack under a "fleet" policy did not depend upon the number of vehicles insured. The fact that only a small number of vehicles were insured under the policy was not dispositive of whether the policy was a "fleet" policy. [33] However, the use of family-member or individual-oriented language in a business auto policy transformed that policy into a personal auto policy for purposes of stacking.[34]

B. STACKING AFTER PUBLIC ACT 93-297

1. Statutory Prohibition on Stacking.

Public Act 93-297 amended C.G.S. Section 38a-336 to add Section (d), which provides, as follows:

> "**Regardless of the number of policies issued, vehicles or premiums shown on a policy, premiums paid, persons covered, vehicles involved in an accident, or claims made, in no event shall the limit of liability for uninsured and underinsured motorist coverage applicable to two or more motor vehicles covered under the same or separate policies be added together to determine the limit of liability for such coverage available to an injured person or persons for any one accident.**" *C.G.S. Section 38a-336 as amended by Public Act 93-297*

This section legislatively overturns prior case law allowing the stacking of uninsured motorist coverages. By its specific terms, both "intrapolicy" and "interpolicy" stacking have been eliminated. Since this amendment affects substantive rights and there is no express language in the act indicating a retroactive application, it has prospective effect only. The concept of stacking will therefore continue to have application to accidents occurring prior to January 1, 1994.[35] The Amendment is also not retroactive to policies issued prior to January 1, 1994 when the collision occurred after that date, but during the term of the policy.[36]

In an attempt to allow the insured to purchase the additional uninsured motorist coverage insurance which the elimination of stacking took away, the amendment replaces stacking with the requirement that insurers shall offer uninsured and underinsured motorist coverage with limits that are *twice* the limits of the bodily injury coverage of the policy issued

to the named insured. It allows provides for the issuance of Conversion Coverage. The insured's selection of uninsured and underinsured motorist limits applies to all subsequent renewals and to policies or endorsements extending, changing, superseding or replacing an existing policy, unless the named insured requests a change of those limits, in writing. Again, this amendment is to have prospective effect only.

2. Stacking Prohibited when Insured Occupies an Owned Vehicle.

The statute provides:

If any person insured for uninsured and underinsured motorist coverage is an occupant of an owned vehicle, the uninsured and underinsured motorist coverage afforded by the policy covering the vehicle occupied at the time of the accident shall be the only uninsured and underinsured motorist coverage available. C. G. S. §38a-336(d).

Therefore, even though an insured may be insured under multiple policies for uninsured/underinsured motorist coverage, for instance as a named insured under a policy covering a non occupied vehicle or as a resident relative under another policy, if that insured is an occupant of their own vehicle, the only uim coverage applicable to the insured's claim would be the uim coverage for their owned and occupied vehicle.[37]

Although the statute attempts to prohibit stacking in this instance, if an insured owns **a vehicle** that is insured under two policies of insurance, they are entitled to the full uninsured motorist coverage from both policies covering the insured's single vehicle.[38] The statute prohibiting stacking specifically applies to two policies covering two or more motor vehicles and where there are two policies covering one vehicle, the anti stacking statute has no application.

3. Stacking Allowed for Insured's Occupying Non Owned Vehicles.

Although the statute does legislatively prohibit stacking when an insured is occupying an owned vehicle, it does permit stacking when the insured is injured as an occupant of a **non-owned** vehicle. The statute would appear to allow the occupant of a non-owned vehicle to pyramid coverages on an interpolicy as well as an intrapolicy basis.

The statute provides as follows:

"**If the claimant is an occupant of a non owned vehicle: which vehicle is insured for uninsured motorist coverage, (a) the uninsured motorist coverage of the occupied vehicle is primary; (b) any uninsured motorist coverage for which the claimant is a named insured is secondary; (c)any other policies under which the claimant is an insured e.g. as a resident relative, are excess; (d) In the event that there are multiple excess policies under which the claimant is insured, the amount paid under the excess policies shall be apportioned among the excess insurers on a pro-rata basis according to the proportion**

that the limits of each excess policy bears to the total limits of the excess policies." C.G.S. Section 38a-336(d) as amended by Public Act 93-297

Therefore, when the claimant is occupying a non-owned vehicle, such a claimant is entitled to coverage under multiple policies. If an insured is covered under multiple policies, the act limits the insured to recovering up to the highest uninsured motorist limit of any policy under which the insured is covered and then mandates the order of contribution among the multiple insurers up to the highest uninsured motorist limit of any one policy.[39] For instance, if the claimant is a resident relative under policies covering two separate vehicles, the uim coverage for those two vehicles can be combined and if the limit of those policies exceed the liability coverage of the underinsured vehicle, the claimant can make claim up to the highest single limit of any single applicable policy. [40] The available coverage is limited to the greater of the two excess policies. The claimant's recovery is then apportioned among the carriers in accordance with the proportion that each limit of the excess policy bears to the total limit of the excess policy.[41]

4. Non Occupants of Vehicles i.e. Pedestrians

The amendment does not specifically address the situation involving claimants injured while not "occupying" a motor vehicle. Although the amendment goes on to address the limits of coverage for claimants injured in owned and occupied vehicles and non owned and occupied vehicles, language limiting the same for non occupants is conspicuously absent from the statute.

In such a situation, an argument can be made that the general anti-stacking language of the statute would not apply since the claimant as a non occupant would not fall within the two scenarios envisioned by the statute, i.e. occupants of owned vehicles, or occupants of non owned vehicles. In this situation, one could argue that prior rules allowing stacking should apply since the legislature failed to address this situation when it amended the statute.

C. MULTIPLE COVERAGES - WHO PAYS?

1. Use of "Other Insurance" Clauses to Determine Priorities of Coverage

A claimant injured in an automobile collision caused by an uninsured motorist may be insured under multiple uninsured motorist coverages. While stacking, for the most part, has been legislatively prohibited in situations involving claimant's who are occupying owned vehicles, it is still permitted in situations where such claimant is occupying a non-owned vehicle and the rules for determining the order of payment in non-owned vehicle situations are not entirely contemplated by the statute. Therefore, prior law regarding the priority of payment in such a situation will be instructive on this issue3

One of the most significant issues involved in a multiple-policy uninsured motorist case is the order of payment among the various insurers.[42] This issue is of paramount significance to the uninsured motorist insurer, since resolving the order of payment among multiple coverages will determine which insurer is entitled to the regulatory reductions of coverage and therefore

whether an insurer will be required to pay damages to a claimant.[43]

Insurers have attempted to resolve this issue by including "other insurance" clauses in their policies.[44] While C. G. S. Section 38a-336(d) pertaining to the order of payment in non owned uninsured cases resolves some situations concerning this issue, it does not address the order of payment in every situation. The statutes and regulations pertaining to uninsured motorist coverage do not mandate the order of payment among multiple coverages in every case; nor do they expressly prohibit the use of "other insurance" clauses in uninsured motorist policies.[45] While "other insurance" clauses cannot be used to prohibit an insured from stacking,[46] they are valid to determine the order of payment among multiple.[47]

In ***Aetna Casualty & Surety Co. v. CNA Ins. Co.*** [48] the court upheld the validity of "other insurance" clauses to determine the order in which underinsured motorist insurers provided coverage to the claimant's claim. The use of "other insurance" clauses to establish the priority of payment among insurers does not violate public policy, since once the insured is afforded full indemnification for a loss, there is no public-policy issue that should control how insurers divide among themselves the loss to their insured.[49] In such a situation, the priority provisions of "other insurance" clauses do not limit or dilute the statutorily mandated coverage, so there is no reason they should not be enforced for this purpose.[50] The proper approach to resolving this issue is to read carefully the language of the other insurance clauses in the policy and, if possible, reconcile them to give effect to the clauses as written.[51]

Determining the proper order of priority among multiple uninsured motorist insurers is difficult because the "other insurance" clauses used by the various carriers often are not uniform, and because no automatic rules apply. The order of payment among carriers can change dramatically depending on the facts of the case and the particular "other insurance" clauses involved.[52]

Although this problem ordinarily is an issue among the uninsured motorist insurers, it can affect the claimant. This occurs when an uninsured motorist claim is filed under multiple uninsured motorist endorsements and each insurer claims its insurance is excess, directing the claimant to look to another uninsured motorist insurer for primary coverage.

Determining who pays requires a case-by-case examination of the factual issues and the ownerships of the vehicles involved. Since the "other insurance" clauses of the policies may be dissimilar, the same rule cannot be applied in each case. Until more decisions are issued in this area, one should proceed cautiously, applying accepted contract interpretation principles wherever possible.[53]

In ***Aetna Casualty and Surety Co., v. CNA Ins. Co***.[54] the claimant was driving a vehicle owned by the named insured and insured by Aetna. She was also a resident relative under another policy issued by CNA. Each "other insurance" clause provided that their underinsured motorist coverage would be excess in a situation where the covered person was injured in a vehicle "you" do not own. Since the covered person was injured while occupying a vehicle owned by Aetna's named insured, the Aetna policy was by its very terms primary and the CNA policy by virtue of its' "other insurance" clause was excess.

In ***O'Brien v. United States Fidelity and Guaranty Co.***,[55] the plaintiff was a pedestrian injured by an uninsured motor vehicle. At the time of the collision, the plaintiff was a named insured under a personal auto policy issued by USF&G. The plaintiff was also insured as a resident relative under a policy issued by Aetna to his parents. The plaintiff made a claim for

arbitration under the USF&G policy only. At the arbitration hearing, USF&G submitted the Aetna policy into evidence. Both policies contained identical "other insurance" clause that provided: "If there is other applicable similar insurance, we will not pay for any damages which would duplicate any payment made for damages under such similar insurance. However, any insurance we provide with respect to a vehicle you do not own, to which other similar insurance is applicable, shall be excess over such other applicable insurance." Based on these clauses, USF&G argued that the plaintiff's loss should be allocated on a pro rata basis between both insurers. The arbitrator agreed and the Supreme Court concluded that the excess clauses of the policy were ambiguous in this situation, i.e. where the claimant, while a pedestrian, had been injured by an uninsured motorist, and held that the clause did not apply in this situation and did not create an obligation on the insured's part to pursue a claim against Aetna in order to be fully indemnified.

In ***Loika v. Aetna Cas. & Surety Co.***, [56] the plaintiff's decedent was a passenger killed in a one car collision. The owner of the vehicle had a $20,000.00 liability policy limit which was paid to the plaintiff. The driver of the vehicle was not the owner and was insured under a liability policy issued to his parents with limits of $100,000.00. The plaintiff then made an underinsured motorist claim under the driver's policy as well as the decedent's own underinsured motorist policy with Aetna. The Court determined that Allstate was the primary insurer and entitled to the entire credit paid by the liability insurers and that Aetna would receive no credit as the excess carrier. The court stated that "by fashioning this result Aetna is treated as an excess carrier, which is exactly what it bargained for. Its liability attaches only to the extent of the excess loss above the primary insurer's uninsured coverage."

It is not always to the insurer's advantage to take the position that the policy provides excess coverage. Many insurers take that position almost automatically, naively assuming that providing excess or secondary uninsured motorist coverage will enable them to pay less in damages. Yet they should keep in mind that the order of payment among carriers also determines the order in which certain reductions in coverage are applied.[57]

A primary carrier has the first claim to certain available reductions [58], which could completely offset the primary uninsured motorist carrier's obligation to pay benefits. A secondary uninsured motorist carrier actually could end up paying uninsured motorist benefits.[59]

C.G.S. Section14-60a provides that the insurer of the borrower of a motor vehicle loaned by an automobile dealer, be the primary source of liability and property insurance for damages caused to third parties by the borrower. The statute does not, however, require the borrower's uninsured motorist insurance to be primary over the uninsured motorist coverage of the dealer.[60]

When an "other insurance" clause of an insurance policy issued to the driver of a rental vehicle provided that "For non-owned . . . vehicles, this insurance is excess over any other insurance, except that written specifically to cover excess over the amount of coverage in this policy," and the driver had expressly declined the liability insurance supplement offered by the renter, and the rental agreement explicitly stated that the rentor's coverage was secondary, the coverage issued to the driver applied as primary coverage.[61] However, a provision in a car rental agreement which provides that by declining to purchase supplemental insurance coverage, the lessee's primary coverage shall be provided by the "liability and personal injury

protection" of the lessee's personal auto policy, does not, as a matter of law, make the lessee's uninsured motorist endorsement primary and therefore genuine issues of material fact exist as to whether that agreement altered the prioritization of uninsured motorist coverage by contract.[62]

2. Priorities of Coverage After Public Act 93-297 Amended C. G. S. Section 38a-336(d)

> **"If a person insured for uninsured and underinsured motorist coverage is an occupant of a non-owned vehicle covered by a policy also providing uninsured and underinsured motorist coverage, the coverage of the occupied vehicle shall be primary and any coverage for which such person is a named insured shall be secondary. All other applicable policies shall be excess. The total amount of uninsured and underinsured motorist coverage recoverable is limited to the highest amount recoverable under the primary policy, the secondary policy or any one of the excess policies. The amount paid under the excess policies shall be apportioned in accordance with the proportion that the limits of each excess policy bear to the total limits of the excess policies. If any person insured for uninsured and underinsured motorist coverage is an occupant of an owned vehicle, the uninsured and underinsured motorist coverage afforded by the policy covering the vehicle occupied at the time of the accident shall be the only uninsured and underinsured motorist coverage available.**
> *C.G.S. Section 38a-336(d) as amended by Public Act 93-297*

Under prior law, the order of payment and credits among multiple uninsured motorist insurers is determined by reference to the "other insurance" clauses contained in each policy of insurance and the specific facts of each case.

The Public Act changed the law somewhat so that in certain circumstances, it mandates the order of payment among multiple uninsured motorist insurers. Although stacking has been legislatively eliminated by the act in the owned vehicle situation, an insured in a **non-owned vehicle** may still be entitled to coverage under multiple uninsured motorist policies. In this situation, if an insured is covered under multiple policies, the act limits the insured to recovering up to the highest uninsured motorist limit of any policy under which the insured is covered. The act then mandates the order of contribution among the multiple insurers up to the highest uninsured motorist limit of any one policy.

The act provides the following rules:

(1) If the claimant is an occupant of an **owned** vehicle, the uninsured motorist coverage applicable to that owned vehicle is the ***sole*** uninsured motorist coverage available to the claimant; [63]

(2) If the claimant is an occupant of a **nonowned** vehicle: which vehicle is

> insured for uninsured motorist coverage, (a) the uninsured motorist coverage of the occupied vehicle is primary; (b) any uninsured motorist coverage for which the claimant is a named insured is secondary; (c) any other policies under which the claimant is an insured, e.g. as a resident relative, are excess; (d) In the event that there are multiple excess policies under which the claimant is insured, the amount paid under the excess policies shall be apportioned among the excess insurers on a pro-rata basis according to the proportion that the limits of each excess policies bears to the total limits of the excess policies.[64]

The act fails to address the situation of apportionment where the claimant is a named insured under more than one policy. As seen previously, the Act also does not apply to situations involving claimants injured as non occupants of motor vehicles. It would seem logical that in such an instance, payment would be apportioned among these insurers on either a pro-rata basis or as set forth in Section II C. 1.

Where the act addresses the order of payment among multiple carriers, by implication it would also apply to determine the entitlement to reductions among multiple insurers. For instance, in a non owned situation, the primary carrier is the coverage applicable to the occupied vehicle. Since such carrier is the primary carrier required to pay uninsured motorist benefits, then such carrier would be entitled to reduce its uninsured motorist limit by the allowable regulatory reductions, with any excess reductions allocated to the secondary and excess carriers. [65]

---

1 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 529 (1990); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 481-82 (1986); *Dixon v. Empire Mutual Insurance Co.*, 189 Conn. 449, 453 (1983); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 394-97 (1982), overruled in part, *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 333-35 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 447-53 (1976); *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229 (1976).

2 *Kent v. Middlesex Mutual Assurance Co.*, 226 Conn. 427, 438 n. 14 (1993).

3 *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478 (1986); *Dixon v. Empire Mutual Insurance Co.*, 189 Conn. 449 (1983); *Nationwide Insurance Co. v. Gode*, 187 Conn.386 (1982), overruled in part, *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443 (1976); *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229 (1976).

4 *Covenant Insurance Co. v. Coon*, 220 Conn. 30, n.6 (1991).

5 *Middlesex Insurance Co. v. Quinn*, 225 Conn. 257 (1993); See Sec. I infra.

6 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 528 (1990); *Nicolletta v. Nationwide Insurance Co.*, 211 Conn. 640, 645 (1989); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 481 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 388 n.2 (1982), overruled in part *Covenant Insurance Co. v. Coon*,

220 Conn. 30 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 332-333 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 450-53 (1976); *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229 (1976).

7 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 528 (1990); *Nicolletta v. Nationwide Insurance Co.*, 211 Conn. 640, 645 (1989); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 481 (1986); *Dixon v. Empire Mutual Insurance Co.*, 189 Conn. 449, 453 (1983); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 389 n.2 (1982), overruled in part *Covenant Insurance Co. v. Coon*, 220 Conn. 30 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 333-35 (1978).

8 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 529 (1990); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478-88 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 388 n.2 (1982), overruled in part *Covenant v. Coon*, 220 Conn. 30 (1991); *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229, 231 (1976).

9 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 529-530 (1990); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 488 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 388 n.2 (1982), overruled in part *Covenant v. Coon*, 220 Conn. 30 (1991).

10 *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530 (1990); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 482 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 395 (1982); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 334 (1978).

11 *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229, 231 (1976).

12 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 670-72 (1991); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535-36 (1990); *Cohn v. Aetna Insurance Co*. 213 Conn. 525, 530 (1990).

13 *Transamerica Ins. Co. v. Panza*, 16 CLR 241 (1996).

14 *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 34-6 (1991); See also 'V.C infra; *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40 (1994); *Allstate Insurance Co. v. Lenda*, 34 Conn. App. 444, 447-48 (1994); *Allstate Insurance Co. v. Link*, 35 Conn. App. 338 (1994).

15 *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 394-95 (1992) overruled in part, *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); See also 'V.C infra; *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40 (1994); *Allstate Insurance Co. v. Lenda*, 34 Conn. App. 444, 447-48 (1994); *Allstate Insurance Co. v. Link*, 35 Conn. App. 338 (1994).

16 *Nationwide Insurance Co. v. Gode*, 187 Conn. 386 (1982) overruled in part *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); *Boyce v. State Farm Insurance Co.*, 8 Conn. L. Rptr. No. 14, 463 (1993); *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40 (1994); *Allstate Insurance Co. v. Lenda*, 34 Conn. App. 444, 447-48 (1994); *Allstate Insurance Co. v. Link*, 35 Conn. App. 338 (1994).

17 *Allstate Insurance Co. v. Lenda*, 34 Conn. App. 444, 448 (1994); and *Allstate Insurance Co. v. Link*, 35 Conn. App. 338, 343 (1994). See also *Allstate Insurance Co. v. Dooley*, 10 Conn. L. Rptr. No.2, 44 (1993).

18 *Nicolletta v. Nationwide Insurance Co.*, 211 Conn. 640, 645-46 (1989); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 482-84 (1986); *Dixon v. Empire Mutual Insurance Co.*, 189 Conn. 449, 452-53 (1983); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 399 (1982), overruled in part *Covenant Insurance Co. v.Coon*, 220 Conn. 30 n.6 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 332-33 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 450-51 (1976).

[19] *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 332-33 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 450-51 (1976).

[20] *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 332-33 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 450-51 (1976).

[21] *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 397-400 (1982), overruled in part *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 486-87 (1986).

[22] *Nationwide Insurance Co. v. Gode*, 187 Conn. 386 (1982), overruled in part *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991).

[23] *Kent v. Middlesex Mutual Assurance Co.*, 226 Conn. 427 (1993); *Dobuzinsky v. Middlesex Mutual Assurance Co.*, Conn. App. 398 (1998).

[24] *Kent v. Middlesex Mutual Assurance Co.*, 226 Conn. 427, 434 (1993); *Dobuzinsky v. Middlesex Mutual Assurance Co.*, Conn. App. 398 (1998).

[25] *Kent v. Middlesex Mutual Assurance Co.*, 226 Conn. 427, 437 (1993); *Dobuzinsky v. Middlesex Mutual Assurance Co.*, Conn. App. 398 (1998).

[26] *Kent v. Middlesex Mutual Assurance Co.*, 226 Conn. 427, 437 (1993); *Dobuzinsky v. Middlesex Mutual Assurance Co.*, Conn. App. 398 (1998).

[27] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 674 (1991); *Nicolletta v. Nationwide Insurance Co.*, 211 Conn. 640, 645-46 (1989); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 482-83 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 398-99 (1982), overruled in part *Covenant Insurance Co. v. Coon*, 220 Conn. 30, 36 n.6 (1991); *Safeco Insurance Co. v. Vetre*, 174 Conn. 329, 332-33 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443, 450-51 (1976).

[28] See Section II.A.

[29] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 668-72 (1991); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535 (1990); *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530 (1990); *Allstate Insurance Co. v. Ferrante*, 201 Conn. 478, 488 (1986); *Nationwide Insurance Co. v. Gode*, 187 Conn. 386, 389 n.2 (1982); *Yacobacci v. Allstate Insurance Co.*, 33 Conn. Sup. 229, 231 (1976); *Broderick v. Ins. Co. of North America*, 25 Conn. App. 673 (1991).

[30] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 668-72 (1991); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535 (1990); *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530 (1990).

[31] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 668 (1991); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535 (1990); *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530 (1990).

[32] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646 (1991); *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530-31 (1990); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535-36.

[33] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646 (1991); *Cohn v. Aetna Insurance Co.*, 213 Conn. 525, 530-31 (1990); *Wilson v. Security Insurance Co.*, 213 Conn. 532, 535-36.

[34] *Transamerica Ins. Co. v. Panza*, 16 CLR 241 (1996).; Nationwide Mutual Ins. Co. v. Barre, 18 Conn. L. Rptr. No. 11, 385 (1997).

[35] Public Act 93-297 '29; *Farmington Casualty Co. v. Goduto*, 1996 CT. Sup. 4744 (1996).

[36] *Wozniak v. Keystone Ins. Co.*, 19 Conn. L. Rptr. 423 (1997); *Guttierrez v. Metropolitan Property*, 21 Conn. L. Rptr. No. 5, 178 (1998); *Renz v. Allstate Ins. Co.* 61 Conn. App. 336 (2001).

[37] *Stott v. Peerless Ins. Co.*, 137 Conn. App. 373 (2012).

[38] *Lane v. Metropolitan Property*, 125 Conn. App. 424 (2010)

[39] See *Fuchs v. Allstate Ins. Co.*, 96 Conn. App. 284 (2006) and *Soucy v. Akins*, 52 Conn. L. Rptr. No. 20 (2012).

[40] See *Fuchs v. Allstate Ins. Co.*, 96 Conn. App. 284 (2006) and *Soucy v. Akins*, 52 Conn. L. Rptr. No. 20 (2012).

[41] *Soucy v. Akins*, 52 Conn. L. Rptr. No. 20 (2012).

[42] See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B. J. 358 (1988).

[43] See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverage: Who Pays?"* 62 Conn. B.J. 358, 360 (1988).

[44] See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverage: Who Pays?"* 62 Conn. B.J. 358, 360 (1988).

[45] See Conn. Gen. Stat. '38a-336; *Regs. Conn. State Agencies* '38a-334-6; See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358 (1988).

[46] *Safeco Insurance Co. v. Vetre*, 174 Conn. 463 (1978); *Pecker v. Aetna Casualty and Surety Co.*, 171 Conn. 443 (1976).

[47] *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992); *Travelers Insurance Co. v. Blackburn*, 4 Conn. L. Rptr. No. 12, 397 (1991); See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358 (1988).

[48] *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992).

[49] *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992).

[50] *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992); See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358 (1988).

[51] *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992); *Travelers Insurance Co. v. Blackburn*, 4 Conn. L. Rptr. No. 12, 397 (1991); See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverage: Who Pays?"* 62 Conn. B.J. 358 (1988).

[52] See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358

(1988); *Fusco v. Allstate Ins. Co.*, 37 Conn. L. Rptr. No. 2, 70 (2004).

53 See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358 (1988).

54 *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992).

55 *O'Brien v. United States Fidelity and Guaranty Co.*, 235 Conn. 837 (1996).

56 *Loika v. Aetna Casualty & Surety Co.*, 44 Conn. Sup. 59, aff'd 39 Conn. App. 717 (1995), aff'd 236 Conn. 902 (1996).

57 *Regs. Conn. State Agencies*, '38-175a-6; *Dunlop v. Government Employees Insurance Co.*, 8 Conn. L. Rptr. No. 11, 347 (1993); See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62Conn. B.J. 358 (1988); Y*oung v. Metropolitan Property and Casualty Ins. Co.*, 21 Conn. L. Rptr. No. 13, 447 (1998); *Davis v. Ace American Ins. Co.*, 57 Conn. L. Rptr> No. 3, 93 (2014); *Englehardt v. New Hampshire Insurance Group*, 36 Conn. Sup. 256 (1979.

58 *Aetna Casualty and Surety Co. v. CNA Insurance Co.*, 221 Conn. 779 (1992); *Young v. Metropolitan Property & Casulaty Ins. Co.*, 21 Conn. L. Rptr. No. 13, 447 (1998); *Loika v. Aetna Casualty & Surety Co.*, 44 Conn. Sup. 59, aff'd 39 Conn. App. 717 (1995), aff'd 236 Conn. 902 (1996); *Fusco v. Allstate Ins. Co.*, 37 Conn. L. Rptr. No. 2, 70 (2004)./ *Fuentes v. City of New Haven*, 40 Conn. L. Rptr. No., 12, 443 (2006).

59 See *Englehardt v. New Hampshire Insurance Group*, 36 Conn. Sup. 256 (1979), where the uninsured motorist coverage of a primary uninsured motorist insurer was completely offset by the Worker's Compensation reduction, while the secondary uninsured motorist insurer paid damages to the claimant. See *P. Morello, "The Problem of Multiple Uninsured Motorist Coverages: Who Pays?"* 62 Conn. B.J. 358 (1988); *Loika v. Aetna Casualty & Surety Co.*, 44 Conn. Sup. 59, aff'd 39 Conn. App. 717 (1995), aff'd 236 Conn. 902 (1996); *Davis v. Ace American Ins. Co.*, 57 Conn. L. Rptr. No. 3, 93 (2014); *Fuentes v. City of New Haven*, 40 Conn. L. Rptr. No., 12, 443 (2006); *Davis v. ACE American Ins. Co.*, 54 Conn. L. Rptr. No. 15, 561 (2012).

60 *Sandor v. New Hampshire Ins. Co.*, 241 Conn. 792 (1997).

61 *Hertz Corp. v. Federal Ins. Co.*, 245 Conn. 374 (1998); See also *Hertz Corp. v. Patriot General Ins. Co.*, 21 Conn. L. Rptr. No. 10, 354 (1998); *Agency Rent-A-Car v. ITT Hartford Accident and Indemnity Co.*, 20 Conn. L. Rtpr. No. 19, 673 (1998).

62 *Rinaldiv. Metropolitan Prop. And Cas. Co., 26 Conn. L. Rptr. No. 2, 69 (2000)*

63 *Lane v. Metropolitan Property*, 125 Conn. App. 424 (2010)

64 See however *Fuchs v. Allstate Ins. Co.*, 96 Conn. App. 284 (2006) where the insured was a resident relative under two excess policies with identical UIM limits and had collected the UIM limit of one insurer. In that case the court held that there would be no proration where the claimant had already recovered the maximum UIM benefits available to which she was entitled from one of the policies.

65 *Young v. Metropolitan Property and Cas.Ins. Co.*, 21 Conn L. Rptr. No., 13 447 (1998); *Davis v. Ace American Ins. Co.*, 57 Conn. L. Rptr. No. 3, 93 (2014); *Fuentes v. City of New Haven*, 40 Conn. L. Rptr. No., 12, 443 (2006); *Davis v. ACE American Ins. Co.*, 54 Conn. L. Rptr. No. 15, 561 (2012).