VII. ARBITRATION OF UNINSURED/UNDERINSURED MOTORIST CLAIMS

A. WHO DECIDES THE ISSUE OF COVERAGE?

The issue of coverage was initially decided by the court as a condition precedent to arbitration,[1] and the only issues arbitrated were the insured's right to recover damages and the amount of damages recoverable. Since 1971, however, C.G.S. Sec.38a-336(c) has required that policies providing for arbitration of uninsured motorist claims include a provision for final determination of insurance coverage in the arbitration proceeding.[2] Policies expressly requiring only uninsured motorist claims to be arbitrated apply also to require arbitration of underinsured motorist claims.[3]

Although the statute requires that the question of coverage be determined in arbitration, some policies continue to limit arbitration to (1) the insured's right to recover damages from the owner or operator of the uninsured motor vehicle, and (2) the amount of such damages. However, when the policy provides for arbitration, the insurer cannot contractually limit the arbitrator's power to decide the coverage issue; that power is statutorily mandated.[4] "The expressed intent and effect of the [statute] is to remove from the court and transfer to the arbitration panel the function of determining, in the first instance, all issues as to coverage under automobile liability insurance policies containing uninsured motorist clauses providing for arbitration."[5] The intent of the statute is to make arbitration compulsory, but only on the issue of coverage.[6]

While the statute requires the arbitration of coverage issues, it does not make the exercise of that power obligatory. The statutory right to have the issue of coverage arbitrated may be waived by the parties or by the one entitled to its benefit.[7] A party's failure to enforce such right at the appropriate time may amount to such a waiver.[8] The statute has not removed from the parties their power to waive its effect. Therefore, when a party to a binding arbitration clause agrees to have a court decide the issue of residency, which would normally be a coverage issue, it has waived its right under the statute to have this issue heard by a panel of arbitrators.[9]

Coverage issues must be arbitrated even if the coverage dispute involves an unsettled or difficult question of law.[10] The following issues have been held to be questions of coverage to be decided in arbitration: whether the claimant gave timely notice of the claim;[11] whether coverages could be stacked;[12] whether a policy's uninsured motorist coverage extended benefits to accidents involving underinsured motorists;[13] whether an exclusion bars recovery;[14] whether the tortfeasor's insurance carrier's denial of liability renders that person an uninsured motorist;[15] whether the claimant exhausted the tortfeasor's liability coverage;[16] whether the policy was in effect at the time of the accident;[17] the amount of coverage available under the policy[18] and whether the claimant was operating a replacement vehicle at the time of the accident.[19]

Also to be decided in arbitration is whether the claimant is entitled to make a claim under his employer's uninsured motorist policy;[20] whether the claimant is an insured for

purposes of obtaining uninsured motorist coverage under a policy issued to a third party;[21] whether a claimant is a resident relative of a named insured's household;[22] and whether an insurer has waived or is estopped from asserting a defense that disclaims coverage.[23]

The arbitrability of a dispute is a threshold legal question for the court.[24] If the claim can be arbitrated, it must be submitted to arbitration.[25] If not, the court may proceed to decide the claim on its merits.[26]

The question of what is or is not a coverage issue and thus arbitrable is not always clear.[27] The identifying characteristic of a coverage issue is the need to interpret the terms of the policy to determine the scope of its coverage.[28]

"Consequently, a coverage issue is one that is governed wholly by the policy language; see *Security Insurance Co. of Hartford v. DeLaurentis,* supra; *Oliva v. Aetna Casualty and Surety Co.*, supra; or involves the interpretation of both statutory and policy language; see *Lane v. Aetna Casualty and Surety Co.*, 203 Conn. 258, 265-67 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 623, 24 (1986); or otherwise implicates the scope of coverage afforded by the terms of the policy. *Gaudet v. Safeco Insurance Co.*, supra." (Parallel citations omitted.)[29] The test has been restated as follows: "whether a question is a coverage issue does not turn on whether we are required to construe the insurance policy or governing law. Rather, we conclude that that question turns on whether the governing law that we are construing deals with the measure of damages that can be recovered *from the tortfeasor,* in which case it is a damages issue or with a limitation on the recovery of damages *from the insurer*, in which case it is a coverage issue."[30]

When an issue may be characterized as one either of arbitrability or of coverage, the policy underlying the statute mandating arbitration of coverage disputes requires the court to submit the issue to the arbitrator.[31]

An issue of arbitrability can be decided by the court as a matter of law without reference to the terms of the policy.[32]

There are two procedural devices by which a party may raise an issue of arbitrability. The first is to refuse to submit to arbitration and have the court decide the issue on an application to compel.[33] The second is to submit the issue to the arbitrators for decision, then challenge the arbitrator's decision on an application to vacate.[34]

The issue of whether the uninsured motorist statutes apply to motorcycle policies was held to be a dispute over the scope of the coverage mandated by C.G.S. Section 38a-336 and was held to be a question to be determined by the court.[35]

Whether or not an insurance contract should be reformed is not a coverage question, and therefore the arbitrators lacked the authority to consider evidence of mutual mistake and to reform the insurance policy.[36]

The issue of whether collateral estoppel bars the plaintiffs from relitigating the issue of damages when the plaintiff has made an application to compel arbitration is a threshold issue for the court to decide, since the issue does not require the court to interpret the policy language, but only to apply the legal doctrine of issue preclusion.[37]

Similarly, the effect of the statute of limitations on the claimant's demand for arbitration was a threshold issue for the court to decide, not a coverage issue to be decided in arbitration. The court had to decide as a matter of law what statutory time limit applied, and

had no need to interpret the policy language, as the policy did not contain a contractual time limit pertaining to arbitration demands.[38]

When an insured triggers a policy's automatic termination clause by procuring other similar insurance, C.G.S. Section 38-343(a), which requires insurers to provide written notice of cancellation of an automobile insurance policy, does not apply.[39] Therefore, the Plaintiff's application seeking an order requiring the Defendant to proceed with arbitration was denied upon the basis that by procuring other similar insurance coverage with another insurance carrier, the Plaintiffs had effectively terminated the coverage of the prior policy and therefore the policy was not in effect at the time of the accident.[40]

A claimant with an uninsured motorist claim must prove the following to compel arbitration: (1) at the time of the accident the policy was in effect; (2) the policy contained an arbitration clause; (3) the claimant was in the class of persons defined as insureds in the policy; (4) the insurer has not paid the claimant's uninsured motorist claim; (5) the claimant's injuries were caused in such a manner to give rise to an uninsured motorist claim under the policy and applicable statutes; and (6) there is either no other insurance or inadequate coverage to indemnify the claimant for his injuries.[41] To compel arbitration, the claimant need not prove that he *would* be entitled to the coverage sought.[42]

Many insurers have removed the arbitration clause from their policies. In such an instance, it is necessary to bring suit against the uninsured motorist insurer. And in that instance, all issues, including those relating to coverage, are decided by the court.

B. SCOPE OF REVIEW OF ARBITRATION AWARDS

1. Scope of Review of Voluntary Arbitration Awards

Generally, arbitration is created by contractual agreement, and the parties determine the matters to be arbitrated and define the powers of the arbitrators.[43] This is known as a voluntary or unrestricted submission to arbitration. Parties that have contractually agreed to arbitrate certain limited issues have no obligation to arbitrate other issues to which they have not agreed,[44] unless compelled by statute.[45]

The scope of judicial review of an arbitration award arising from a voluntary or unrestricted submission is limited by the terms of the arbitration agreement and by the provisions of C.G.S. Section 52-418.[46] In such cases, the court merely examines the submission to arbitration, and the award, to determine whether the award conforms to the submission; the court will review neither the evidence nor the award for errors of fact or law.[47]

The rationale behind such a limited scope of review is that given a voluntary agreement to arbitration, the parties have assumed the risks of, and waived any objection to, the arbitrators' decision.[48] Thus, if the parties to a voluntary arbitration have contracted for the process, they should be bound by the decision of the arbitrators "even if it is regarded as unwise or wrong on the merits."[49]

Great care should be taken when modifying a policy's written agreement to arbitrate. An agreement that submits the issues of coverage, liability and damages to arbitration but reserves the right to court review of any award pursuant to *American Universal Insurance Co.*

v. DelGreco,[50] has been held to be a voluntary, unrestricted submission and therefore not subject to a de novo review of the arbitrators' legal conclusions on coverage.[51]

To ensure de novo review, the better practice is to state expressly in the written agreement to arbitrate that the arbitrators' conclusions of law and factual findings relating to the issue of coverage would be subject to de novo and substantial-evidence review, respectively. Such a reservation would restrict the submission and provide a specific standard of review.[52]

Even where the submission is unrestricted, there are certain circumstances where the Court will conduct a broader review than merely comparing the award to the submission. Our Supreme Court has recognized "three grounds for vacating an unrestricted award:

(1) The award rules on the constitutionality of a statute . . .
(2) The award violates clear public policy . . .
(3) The award contravenes one or more of the statutory proscriptions of C.G.S. Sec. 52-418.[53]

A manifest disregard for the law is one of the two common law grounds upon which a court may vacate an arbitration award resulting from an unrestricted submission to an arbitrator.[54] This is a very narrow ground for vacating an arbitration award and is reserved for circumstances of an arbitrator's extraordinary lack of fidelity to established legal principles.[55]

2. Scope of Review of Compulsory Arbitration Awards

a. Scope of Review of Legal Conclusions With Respect to Compulsory Coverage Issues

C.G.S. Sec. 38a-336(a) *requires* the insurer to submit coverage issues to the arbitrators when the policy provides for arbitration. This provision makes arbitration of insurance *coverage* issues compulsory.[56]

"Where judicial review of compulsory arbitration proceedings required by [C.G.S.] Sec. 38-175c(a)(1) [now '38a-336(a)(1)] is undertaken under General Statutes Sec.52-418, the reviewing court must conduct a de novo review of the interpretation and application of the law by the arbitrators."[57] De novo review is an independent review by the court to determine if the arbitration panel's interpretation or conclusions of law are legally and logically correct.[58] Such de novo review is limited to the arbitration panel's interpretation and application of the law relating to coverage.[59]

This broader standard of judicial review is warranted by the fundamental difference between voluntary and compulsory arbitration.[60]

Parties to a voluntary arbitration have bargained for the decision of the arbitrator and have assumed the risks of and waived objections to the decision.[61] As such, judicial review is limited to a comparison between the award and the submission, and the courts will not review the award for errors of fact or law.[62]

Compulsory statutory restrictions on a party's right to contract must comport with procedural and substantive due process,[63] and such considerations warrant a higher level of judicial review of arbitration awards arising from statutorily mandated arbitrations.[64]

Parties compelled to arbitrate certain issues should not be subjected to erroneous applications of the law on these issues, and a standard of review merely comparing the award to the submission would be equivalent to no review at all.[65]

In order to properly preserve a coverage issue for appellate review, it should be raised before the arbitration panel.[66]

Keep in mind that C.G.S. Sec. 38a-336, which compels arbitration of coverage issues, applies only to contracts of insurance issued in Connecticut. A contract of automobile insurance issued out of state (when the state of issuance does not have a statute requiring binding arbitration of insurance coverage disputes) that contains an arbitration clause requiring the issues of coverage and damages to be submitted to arbitration is a voluntary submission of the coverage issue and is not subject to de novo review.[67]

When the reviewing court fails to conduct a de novo review of the coverage issue, an appellate court will do so and such court must search the record to determine whether there is substantial evidence to support the award.[68] Pursuant to Practice Book 1998 Sec. 60-2, the appellate court may properly undertake a de novo review of the coverage issue without remand of the case to the trial court.[69]

b. Scope of Review of Factual Findings with Respect to Compulsory Coverage Issues

Although de novo review of a compulsory coverage award is required, de novo review of the factual findings of arbitrators on coverage issues is not; the appropriate standard of review for such factual findings is the "substantial evidence" test employed in the judicial review of factual findings by administrative agencies.[70]

The substantial evidence test compels a reviewing court to determine whether the record contains substantial evidence to support the arbitration panel's factual findings and whether the panel has drawn reasonable conclusions from those facts.[71] If the record provides a substantial basis of fact for the reviewing court to reasonably infer the fact in issue, then substantial evidence will be found to exist.[72] The arbitrator's right to credit testimony, in whole or in part, must be deferred to by the reviewing court.[73] Except in special circumstances, a party does not have the right to introduce evidence in the reviewing court in connection with that review.[74] Even if two inconsistent conclusions can be drawn from the evidence, the arbitrator's findings still may be supported by substantial evidence.[75] The role of the reviewing court is to determine whether the arbitrator's factual findings are reasonable, but not to draw inferences from the evidence presented to the arbitrators.[76] Whether a factual finding of an arbitration panel is supported by substantial evidence is a question of law subject to de novo review by the court.[77]

To preserve a challenge to an arbitration panel's factual findings and to ensure that the reviewing court is able to conduct an effective review, C.G.S. §38a-336 requires a record of the proceedings to be preserved and made available to the court.[78] In cases where the arbitrators do not explicitly delineate their factual findings, a reviewing court will search the

record to determine if there is substantial evidence to support the panels's conclusions.[79] Without such a record, it is unlikely any review of the arbitrator's factual findings would be conducted.

c. Modification or Correction of Award

The modification or correction of an arbitration award is governed by C.G.S. §52-419(a) which provides as follows:

> **"Upon the application of any party to an arbitration, the superior court . . . shall make an order modifying or correcting the award if it finds any of the following defects:**
>
> **(1) If there has been an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property**
> **referred to in the award;**
>
> **(2) if the arbitrators have awarded upon a matter not submitted to them unless it is a matter not affecting the merits of the decision upon the matters submitted; or**
>
> **(3) if the award is imperfect in matter of form not affecting the merits of the controversy."**
> *Conn. Gen. Stat. Sec. 52-419(a)*

The role of the court in reviewing a compulsory arbitration case is much more expansive than it is in reviewing voluntary arbitration awards.[80]

In the review of compulsory arbitration cases, "the court must have the authority to enter an appropriate order to modify the award so as to reflect those factual findings and that legal determination, and thus to effect the intent of the award as it should have been rendered under the law and to promote justice between the parties."[81]

Three factors must be considered to determine whether a reviewing court has the authority to modify an arbitration award under C.G.S. Sec. 52-419[82]: (1) whether the issue was considered by the arbitrators; (2) whether either party contested the issue in the reviewing court; and (3) whether the modifications required only undisputed mathematical calculations.[83]

Pursuant to C.G.S. Sec. 52-418(b) which states "if an award is vacated and the time within which the award is required to be rendered has not expired, the court or judge may direct a rehearing by the arbitrators," the court has the authority to remand a decision to the original arbitrators. Generally, however, a reviewing court's decision to vacate an award comes long after the time has expired for the original arbitrators to render an award. In that case, the court may remand the decision to a second arbitration hearing.[84]

3. Scope of Review of Voluntary Legal and Factual Issues

Regs. Conn. State Agencies Sec. 38a-334-6(b), allows the insurer to provide that the issues of liability and damages be arbitrated.[85]

> **"Arbitration. The insurer may provide but not require that the issues of liability as between the insured and the uninsured motorist, and the amount of damages, be arbitrated."**

Many insurance policies provide that the only issues to be arbitrated are (1) the insured's right to recover damages from the owner or operator of the uninsured motor vehicle, and (2) the amount of such damages.

Although the statute C.G.S. Sec. 38a-336 compels the arbitration of insurance coverage issues, neither it nor the regulation compels the arbitration of any other issues, legal or factual, arising from the policy.[86]

Insurers who contractually provide for the arbitration of the issues of legal liability and damages do so voluntarily and without statutory compulsion.[87] In such instances, the arbitrators derive their authority from the contract between the parties, not from the statute.[88] Because arbitration of these issues is voluntary, the court will not engage in a de novo review of the law or facts, and judicial review of the arbitrators' decision on these issues is limited to determining whether the award conforms to the submission.[89]

Similarly, the submission of the issue of the allocation of coverages among multiple insurers is not a coverage question requiring arbitration.[90] Since such an issue is voluntarily submitted, an award deciding it is not subject to de novo review, but is limited to a comparison of the submission with the award.[91]

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1 See *Frager v. Pennsylvania General Insurance Co.*, 155 Conn. 270 (1967) and 161 Conn. 472 (1971) (appeal on remand); *Visselli v. American Fidelity Co.*, 155 Conn. 622 (1967).

2 *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 396 (1991); *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 657 (1991); *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37, 41 (1980). Note also that the Conn. Ins. Guar. Assn. is bound to arbitrate an uninsured motorist claim where the insolvent insurer's policy contained an arbitration clause. *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

3 *Flynn v. Great American Ins.*, 24 Conn. L. Rptr. No. 12, 414 (1999).

4 *Lane v. Aetna Casualty and Surety Co.*, 203 Conn. 258, 262-63 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 623 (1986); *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37, 41 (1980).

5 *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37, 41 (1980).

6 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 657-58 (1991).

7 *Stevens v. Hartford Accident & Indemnity Co.*, 39 Conn. App. 429 (1995).

[8] See *Matheson v. Hartford Casualty*, 23 Conn. L. Rptr. No. 13, 437 (1999) holding that the claimant's inactivity in pursuing an arbitration claim after a demand for arbitration had been filed, without additional evidence showing an intention to relinquish the claim, does not constitute an abandonment or waiver of the claim.

[9] *Stevens v. Hartford Accident & Indemnity Co.*, 39 Conn. App. 429 (1995).

[10] *Lane v. Aetna Casualty and Surety Co.*, 203 Conn. 258 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 623 (1986); *Metropolitan Property and Liability Insurance Co. v. Cole*, 7 CLT No. 20, p. 9 (1981); *Commercial Union Insurance Co. v. Kamela*, 7 CLT No. 8 p. 9 (1981).

[11] *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37 (1980); *Commercial Union Insurance Co. v. Holt*, 7 CLT No. 25, p. 15 (1981); *Commercial Union Insurance Co. v. Kamela*, 7 CLT No. 8 p. 9 (1981).

[12] *Wilson v. Security Insurance Group*, 199 Conn. 618 (1986); *Metropolitan Property and Liability Insurance Co. v. Cole*, 7 CLT No. 20, p. 9 (1981); *Government Employees Insurance Co. v. Brainard*, 7 CLT No. 2, p. 10 (1981).

[13] *Security Insurance Co. of Hartford v. DeLaurentis*, 202 Conn. 178 (1987).

[14] *Metropolitan Property and Liability Insurance Co. v. Cole*, 7 CLT No. 20, p. 9 (1981).

[15] *Jeffrey v. Colonial Penn Insurance Co.*, 7 CSCR 450 (1992); *Peerless Insurance Co. v. Benedetti*, 13 CLT 23 (1987); *Reliance Insurance Co. v. Simler*, 8 CLT No. 2, p. 16 (1982); contra *Nationwide Insurance Co. v. Bergeron*, 8 CLT No. 12, p. 13 (1982).

[16] *Lane v. Aetna Casualty and Surety Co.*, 203 Conn. 258 (1987).

[17] *Welch v. Maryland Casualty Co.*, 15 CLT No. 1 (1989).

[18] *Allstate Ins. Co. v. Caltabiano*, 74 Conn. App. 49 (2002)

[19] *Capozzi v. Liberty Mutual Fire Insurance Co.*, 32 Conn. App. 250 (1993).

[20] *Gambardella v. National Union Fire Insurance*, 10 Conn. L. Rptr. No. 9, 278 (1993).

[21] *Sisk v. Chrysler Insurance Co.*, 12 Conn. L. Rptr. No. 6, 197 (1994).

[22] *Stevens v. Hartford Accident & Indemnity Co.*, 39 Conn. App. 429 (1995).

[23] *Lumberman's Mutual v. McDonough*, 1996 Ct. Sup. 3743 (1996).

[24] *Lane v. Aetna Casualty and Surety Co.*, 203 Conn. 258, 262 (1987); *Beloff v. Progressive Casualty Insurance Co.*, 203 Conn, 45, 54 (1987); *Security Insurance Co. of Hartford v. DeLaurentis*, 202 Conn. 178, 187 (1987); *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37, 39-40 (1980); *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994).

[25] *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 399-400 (1991); *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994).

[26] *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 399-400 (1991); *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994).

[27] *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994); *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998).

[28] *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994).

[29] *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994); *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998).

[30] *Quigley-Dodd v. General Accident*, 256 Conn. 225 (2001)

[31] *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 399 (1991); *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994).

[32] *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994); *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998).

[33] *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998).

[34] *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998).

[35] *Beloff v. Progressive Casualty Insurance Co.*, 203 Conn. 45 (1987).

[36] *Crowe v. Assurance Co.*, 11 Conn. L. Rptr. No. 13, 414 (1994).

[37] *Roberts v. Westchester Fire Insurance Co.*, 40 Conn. App. 294 (1996).

[38] *Wynn v. Metropolitan Property & Casualty Insurance Co.*, 30 Conn. App. 803 (1993); aff'd 228 Conn. 436 (1994); *Estate of Nicholas J. Cirillo v. Nation Union Fire Ins. Co.*, 18 Conn. L. Rptr. No. 16, 566 (1997) *Prudential Property & Casualty Ins. Co. v. Perez-Henderson*, 49 Conn. App. 653 (1998)..

[39] *Majernicek v. Hartford Casualty Ins. Co.*, 240 Conn. 86 (1997).

[40] *Majernicek v. Hartford Casualty Ins. Co.*, 240 Conn. 86 (1997).

[41] *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 400 (1991).

[42] See *Gaudet v. Safeco Insurance Co.*, 219 Conn. 391, 398 (1991), where the court rejected the insurer's contention that arbitration of coverage issues could not be compelled until the claimant first proved his status as an insured as a condition precedent to asserting a contractual right to enforce the policy's arbitration clause.

[43] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 185 (1987); *Maluszewski v. Allstate Insurance Co.*, 34 Conn. App. 27 (1994); *United States Fidelity & Guaranty Co. v. Hutchinson*, 244 Conn. 513 (1998).

[44] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 185 (1987); *Security Insurance Co. of Hartford v. DeLaurentis*, 202 Conn. 178, 182-83 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 622 (1986).

[45] *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37 (1980).

[46] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 185 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618 (1986); *Carroll v. Aetna Casualty and Surety Co.*, 189 Conn. 16, 22 (1983); *Maluszewski v. Allstate Insurance Co.*, 34 Conn. App. 27 (1994).

[47] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 186 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 626-27 (1986); *Carroll v. Aetna Casualty and Surety Co.*, 189 Conn. 16, 21 (1983); *Maluszewski v. Allstate Insurance Co.*, 34 Conn. App. 27 (1994); *United States Fidelity & Guaranty Co. v. Hutchinson*, 244 Conn. 513 (1998).

[48] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 186-187 (1987); *Wilson v. Security Insurance Group*, 199 Conn. 618, 626-627 (1986); *United States Fidelity & Guaranty Co. v. Hutchinson*, 244 Conn. 513 (1998).

[49] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 187 (1987).

[50] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178 (1987)

[51] *Maluszewski v. Allstate Insurance Co.*, 34 Conn. App. 27 (1994).

[52] *Maluszewski* v. *Allstate Insurance Co.*, 34 Conn. App. 27 (1994).

[53] *Garrity v. McCaskey*, 223 Conn. 1 (1992); *SCRRRA v. American Ref-Fuel Co. of South Eastern Connecticut*, 44 Conn. Supp. 482, aff'd 44 Conn. App. 728 (1997).

[54] *Garrity v. McCaskey*, 223 Conn. 1 (1992)*; Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

[55] *Garrity v. McCaskey*, 223 Conn. 1 (1992); *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

[56] *Wilson v. Security Insurance Group*, 199 Conn. 618, 622-24 (1986); *Oliva v. Aetna Casualty and Surety Co.*, 181 Conn. 37 (1980).

[57] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 191 (1987).

[58] *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 184 (1987).

[59] *Bodner v. USAA*, 222 Conn. 480, 488 (1992); *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178 (1987).

[60] *Bodner v. USAA*, 222 Conn. 480, 486-87 (1992); *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 187 (1987); See also '1.E.1.

[61] *Bodner v. USAA*, 222 Conn. 480, 486-87 (1992); *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 186-87 (1987); See also 'I.E.1.

62 *Bodner v. USAA*, 222 Conn. 480, 487-88 (1992); *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 186-87 (1987); See also 'I.E.1.

63 *Bodner v. USAA*, 222 Conn. 480, 487 (1992); *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 187 (1987).

64 *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 188 (1987).

65 *American Universal Insurance Co. v. DelGreco*, 205 Conn. 178, 191 (1987).

66 *Dobuzinsky v. Middlesex Mutual Assurance Co.*, 40 Conn. App. 398 (1998); *Polizos v. Nationwide Mutual Ins. Co.*, 21 Conn. L. Rptr. No. 11, 363 (1998).

67 *General Accident Insurance Co. v. McGee*, 33 Conn. App. 626 (1994).

68 *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

69 *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

70 *Rydingsword v. Liberty Mutual Insurance Co.*, 224 Conn. 8, 21 (1992); *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 656 (1991); *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 729, 733 (1993); *Lawrence v. New Hampshire Insurance Co.*, 29 Conn. App. 484, 490 (1992); *Williams v. State Farm Mutual Automobile Insurance Co.*, 229 Conn. 359 (1994); *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40, (1994); *Almeida v. Liberty Mutual Insurance Co.*, 234 Conn. 817 (1995); *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999); *Lucas v. General Accident Ins. Co. of America, 46 Conn. Sup. 502 (2000), aff'd 59 Conn. App. 544 (2000).*

71 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 660-61 n.15 (1991); *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 729, 733 (1993); *Lawrence v. New Hampshire Insurance Co.*, 29 Conn. App. 484, 490 (1992); *Williams v. State Farm Mutual Automobile Insurance Co.*, 229 Conn. 359 (1994); *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40, (1994); *Almeida v. Liberty Mutual Insurance Co.*, 234 Conn. 817 (1995); *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999); *Lucas v. General Accident Ins. Co. of America, 46 Conn. Sup. 502 (2000), aff'd 59 Conn. App. 544 (2000).*

72 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 656, 666 n.15 (1991); *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 733, 734 (1993); *Lawrence v. New Hampshire Insurance Co.*, 29 Conn. App. 484, 490 (1992); *Williams v. State Farm Mutual Automobile Insurance Co.*, 229 Conn. 359 (1994); *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40, (1994); *Almeida v. Liberty Mutual Insurance Co.*, 234 Conn. 817 (1995); *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999): *Lucas v. General Accident Ins. Co. of America, 46 Conn. Sup. 502 (2000), aff'd 59 Conn. App. 544 (2000).*

73 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 661 n.15 (1991); *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 729, 734 (1993); *Williams v. State Farm Mutual Automobile Insurance Co.*, 229 Conn. 359 (1994); *Boyce v. State Farm Insurance Co.*, 34 Conn. App. 40, (1994); *Almeida v. Liberty Mutual Insurance Co.*, 234 Conn. 817 (1995).

74 *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 656 (1991).

75 *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 729, 734 (1993); *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. 212 (1999).

[76] *D'Addio v. Connecticut Insurance Guaranty Association*, 30 Conn. App. 729, 735 (1993).

[77] *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

[78] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 661 (1991); See, *e.g., Allstate Insurance Co. v. Link*, 35 Conn. App. 338 (1994), in which the court refused to review a claim regarding a reduction in future workers' compensation benefits where the appellant failed to provide an adequate record of the arbitration proceedings for the trial court's review.

[79] *Conn. Ins. Guar. Assn. v. Zasun*, 52 Conn. App. 212 (1999).

[80] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 679 (1991); See also 'I.E.2.

[81] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 679 (1991).

[82] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 679-80 (1991); *Lawrence v. New Hampshire Insurance Co.*, 29 Conn. App. 484, 494-95 (1992).

[83] *Chmielewski v. Aetna Casualty and Surety Co.*, 218 Conn. 646, 679- 80 (1991); *Lawrence v. New Hampshire Insurance Co.*, 29 Conn. App. 484, 494-95 (1992).

[84] *Aetna Life & Casualty Co. v. Bulaong*, 218 Conn. 51, 64 (1991); *Lumbermen's Mutual v. McDonough*, 1996 Ct. Sup. 3743 (1996)

[85] "Arbitration. The insurer may provide but not require that the issues of liability as between the insured and the uninsured motorist, and the amount of damages be arbitrated." Regs. Conn. State Agencies Section 38a-334-6(6).

[86] *Bodner v. USAA*, 222 Conn. 480, 488 (1992).

[87] *Bodner v. USAA*, 222 Conn. 480, 488-89 (1991); *Russo v. Aetna Casualty and Surety Co.*, 9 Conn. L. Rptr. No. 14, 417 (1993); *Prudential Insurance Co. v. Zacarelli*, 7 Conn. L. Rptr. No. 15, 444 (1992); *Russo v. Aetna Casualty and Surety Co.*, 8 CSCR 812 (1993); *General Accident Insurance Co. v. McGee*, 33 Conn. App. 626 (1994).

[88] *Bodner v. USAA*, 222 Conn. 480, 488-89 (1991); *Russo v. Aetna Casualty and Surety Co.*, 9 Conn. L. Rptr. No. 14, 417 (1993); *Prudential Insurance Co. v. Zacarelli*, 7 Conn. L. Rptr. No. 15, 444 (1992); *Russo v. Aetna Casualty and Surety Co.*, 8 CSCR 812 (1993); *General Accident Insurance Co. v. McGee*, 33 Conn. App. 626 (1994).

[89] *Bodner v. USAA*, 222 Conn. 480, 488-89 (1991); *Russo v. Aetna Casualty and Surety Co.*, 9 Conn. L. Rptr. No. 14, 417 (1993); *Prudential Insurance Co. v. Zacarelli*, 7 Conn. L. Rptr. No. 15, 444 (1992); *Russo v. Aetna Casualty and Surety Co.*, 8 CSCR 812 (1993); *General Accident Insurance Co. v. McGee*, 33 Conn. App. 626 (1994).

[90] *Hartford Accident and Indemnity Co. v. Dell'Oro, et al.*, 7 CSCR 392 (1992); *Hartford Accident and Indemnity Co. v. Dell'Oro, et al*, 7 CSCR 242 (1992).

[91] *Hartford Accident and Indemnity Co. v. Dell'Oro, et al.*, 7 CSCR 392; *Hartford Accident and Indemnity Co. v. Dell'Oro, et al*, 7 CSCR 242 (1992).