

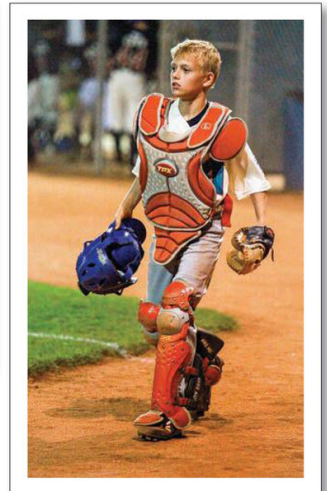
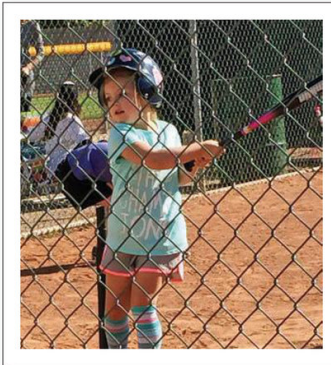
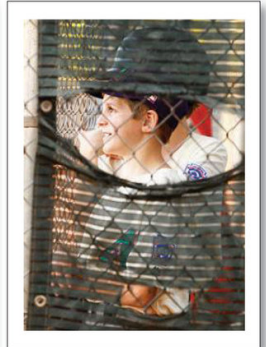
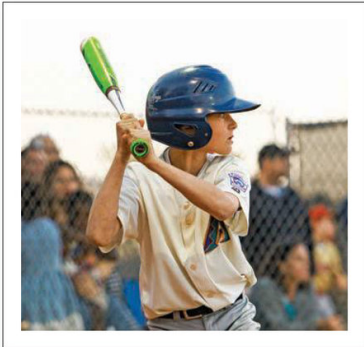
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Valley teens receive Abercrombie & Fitch Anti-Bullying Scholarship for their work on local campaigns.

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Five surprises for insurance companies in Arizona

By Jennifer A. Cranston

Most insurance companies conduct business in multiple states (and sometimes countries). As a result, most keep track of the general do's and don'ts of insurance law. However, over the years, I have noticed a few unique aspects of Arizona insurance law – aimed at protecting the insured – that sometimes take insurance companies by surprise.

Here are my top five principles of Arizona law that may assist an insured individual in navigating the insurance claims process:

1. Continued obligation to pay defense costs – Most liability insurance policies state that the company's obligation to defend a lawsuit against its insured ends when the company pays its policy limits. The potential impact of this kind of provision allows the insurance company to pay all the policy limits to settle only a portion of a lawsuit and then leave the insured to defend himself against the rest of the claims or claimants. However, in Arizona, an insurance company must continue to pay defense costs until it obtains either a release of its insured individual's personal liability or a satisfaction of judgment on behalf of its insured.

2. Consequence of failure to offer uninsured and underinsured motorist coverage – By Arizona statute, when an insurance company offers automobile liability coverage to its insured, it must also offer uninsured and underinsured motorist coverage at the same limits. These coverages provide compensation to an insured if he is injured in an accident by another driver who does not have any insurance or whose insurance is insufficient to cover the insured person's damages. What many insurance companies don't realize is that, if the company fails to offer these coverages, then it may have to pay the full amount of liability coverage to its insured in the event that the insured is injured in an uninsured or underinsured auto accident.

3. Insurability of punitive damages – In a lawsuit, most damages are compensatory, meaning they are intended to compensate the plaintiff for damages he sustained. However, there are times when additional damages are available to a plaintiff – called punitive damages – which are intended to punish a defendant for extreme wrongdoing. In many states, if punitive damages are assessed against a defendant, then that defendant's insurance company is not required to pay those damages. However, in Arizona, unless the insurance policy expressly excludes coverage for punitive damages, the insurance company may have to pay the additional damages

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on behalf of its insured.

4. Enforcement of limitation of action clauses – Most insurance policies have a limitation of action clause, which basically sets a deadline for the insured to file suit against the company in the event that the insured disagrees with the insurance company's coverage decision. In Arizona, these time limitations are not always enforceable. If the insured files a lawsuit after the policy's limitation period has ended, the lawsuit may still proceed if the reason for the insured person's delay is attributable to the insurance company or if the delay did not prejudice the company's ability to defend the lawsuit.

5. Interest on first-party claims – First-party insurance provides coverage for injuries or losses suffered by the insured. Examples of first-party claims are claims for damage to property and uninsured or underinsured motorist claims. Under a little-known Arizona statute, if the insurance company does not pay these claims within 30 days after the insured submits an acceptable proof of loss, then the company has to pay interest for the time of the delay (unless the company has a good faith basis to deny the claim).

Please note the foregoing descriptions are general and may not apply in all cases. Each insurance claim should be evaluated on a case-by-case basis in light of its particular facts.

— Jennifer A. Cranston is a shareholder at Gallagher & Kennedy. She focuses her practice on three primary areas: real estate disputes, including condemnation and valuation matters; insurance coverage analysis and bad faith litigation; and public utility regulation. For more information about Ms. Cranston, please visit gknet.com.

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