

Accidents Happen to People Like You!

By: Kim Douglas Sherman, Esquire

The insurance companies have done a very good job convincing the public that lawyers are to blame for higher insurance premiums. It is not the legal community that is the cause of crashes, falls, and professional malpractice — it is carelessness. Let us start with the practical fact that people make mistakes, and their mistakes cause damage and injury to themselves or others. As a litigation attorney for over thirty years, I have learned that a great many conflicts can be resolved without attorneys. Sometimes it is as simple as just saying “sorry,” acknowledging the damage, and paying for the damage caused. When the damages are just too great, that is when you need to have adequate insurance. You should carry enough insurance to protect your assets in the event you cause the damage. What people in South Florida often ignore, is that so many people have no insurance to pay for their mistakes, and those same people have insufficient assets from which victims of their mistakes can be paid. This is really the main point of this month’s legal matter article.

Florida applies “comparative negligence” in determining how much someone may recover in an accident claim. It is really a logical concept. For example, if someone trips over an uneven walkway, you could say that the person who tripped might be fifty percent responsible for not watching their feet, while the owner of the property is responsible for the other fifty percent of fault. Using that example, if the injuries suffered equal \$10,000, the person who was hurt would be entitled to \$5,000. For motor vehicle accidents, Florida adds the concept of “No Fault.” In simple terms, even if a person is one hundred percent at fault, they cannot be sued for the victim’s pain and suffering, unless the damage caused is permanent injury, scarring, or disfigurement. The state requires every driver to insure themselves for at least \$10,000 of their own damages; that is called PIP, or personal injury protection. The “penalty” for not carrying the PIP is the loss of the “permanent injury” requirement from being sued; you are subject to what we used to call “nuisance claims.” If a driver causes a crash with injuries and does not have liability insurance, the state will suspend the driving privilege until insurance is obtained and the damages have been paid. It is clear that in Florida, there are too many uninsured drivers, who just don’t care.

You should have enough insurance to cover any damage that other people may cause to you. Make sure to buy uninsured/under-insured motorist coverage. Elect medical payment coverage to supplement you deductibles. Seriously think about how much money you might need if someone damages you. In Florida, it is not “if” you will be in an accident, but “when.”