



October 5, 2017

Interim Insurance Committee  
Senator Jeff Longbine, Chairman

RE: Motor Vehicle Liability Insurance - Underinsured Motorist Coverage  
Minimum Limits - HB 2104 (Support)

DeVaughn James Injury Lawyers represents individuals who have been hurt in automobile collisions. We have represented over 2,000 Kansans from all corners of the state whose lives have been changed by an automobile collision that was NOT their fault. Someone else chose to drive drunk, run a red light or speed into oncoming traffic, and our clients/your voters are the ones who suffered. Not only does the collision injure them physically and emotionally, it also often leads to financial ruin. The legislature can help this problem.

The current minimum levels of insurance shifts the responsibility for payment of medical bills and expenses from the bad driver to the injured party and government funded health insurance programs. We do not need more medical expenses going to Kansas Medicaid or Medicare when they should be paid for by the bad driver.

In 2016, both houses raised the property damage limits from \$10,000 to \$25,000 recognizing that vehicles cost more than they did in 1981. However, the bodily injury limits were left at \$25,000 where they have been since 1981 this ignores reality. It sent the message that the legislature puts a higher value on cars than people. I do not believe that to be true, and I am counting on you to respond and correct this injustice.

At this time, the cost of healthcare has increased more than the cost of vehicles. *Forbes Magazine* published a study noting the health care costs rose faster than the consumer price index.<sup>1</sup> To keep current with standard inflation and have the same buying power as it did in 1981 the new limit would need to go from \$25,000 to \$66,000.<sup>2</sup>

Attached as exhibits to this written testimony, you will find the statements of our clients and other Kansas citizens who have struggled with the \$25,000 minimum limits for bodily injury.<sup>3</sup>

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<sup>1</sup> Source: *U.S. Healthcare Costs Rise Faster Than Inflation*, Forbes Magazine, June 29, 2015 by Mike Patton.

<sup>2</sup> Source: *U.S. Bureau of Labor Statistics*; United States Department of Labor.  
[www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)

<sup>3</sup> Submitting Written Testimony Only as Exhibit A –Kelli Pease; Exhibit B – Tommie Burton; Exhibit C – Mohammed Noori; Exhibit D – Sandra Watie; Exhibit E – Vance Hopkins Additional clients will testify in person.

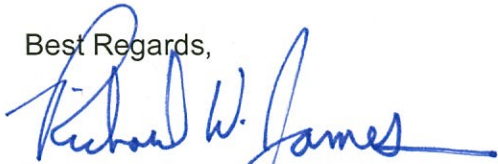
On almost a daily basis, we are involved with Kansas citizens who even with relatively moderate injuries have medical expenses that exceed \$25,000 just from the initial ambulance transport and emergency room charges from the trauma centers. When the negligent driver does not have sufficient liability limits, the damages for medical expenses, lost wages and rehabilitation falls on either the injured citizen or the government. Even though the negligent driver caused the injury, the unpaid charges become the responsibility of programs such as Medicare or Medicaid. When no insurance is available, the health care provider goes unpaid and our hospitals and doctors suffer financially.

One common misconception of our clients is the belief that when they have minimum limits of \$25,000 and the "at fault" driver has \$25,000, they have coverage for being hit by an "underinsured driver" i.e. they think they can get 25,000 from the bad driver and \$25,000 from their own insurance. That is not the case. Pursuant to Kansas Law, the injured person with minimum limits has no underinsured coverage that they can only rely upon. Consider the case of our client Tommie Burton; he has also submitted written testimony. He received less than \$25,000. This is because the minimum limits had to be shared with multiple people since four individuals were killed or severely injured in his case. His bills were in excess of \$100,000.

We tend to think only of issues with medical expenses, but when our clients have lost wages due to an extended hospital stay or future lost wages because the injuries prevent them from working or performing their usual occupation, the \$25,000 limit still applies. The cost difference in raising the minimal coverage amount from \$25,000 to \$50,000 is minimal. In our personal cases, the difference was around one dollar a month.

It is in the best interest of all Kansans to set the bodily injury limits at a realistic amount and to stop the UIM offset, which results in illusory "underinsured" motorist coverage that policyholders cannot collect.

Best Regards,



Richard W. James  
DEVAUGHN JAMES INJURY LAWYERS  
rjames@devaughnjames.com

My name is Sandra Watie. My life was completely changed almost two years ago, on February 22, 2015 when I was involved in a motor vehicle collision and the only automobile insurance involved was a minimum limits policy.

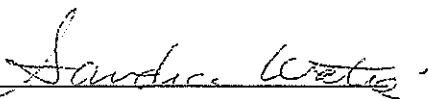
I am a wife, mother, and small business owner. I live at 2573 N. Minnesota St., Wichita, KS 67219.

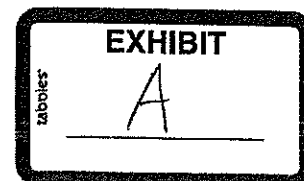
On the day of the collision, I was driving my vehicle when another driver ran through stop sign and slammed into the passenger side of my vehicle. The severe impact caused us to spin around and hit the curb. I felt immediate pain in my right shoulder, neck and low back. I also hit my head as I began experiencing an intense headache that would continue to plague me for over a year after the collision

I visited my doctors and did the prescribed physical therapy, but I was still not getting better. I remember the struggles I had with daily activities like sitting, standing, raising my arms. Prior to the collision I was a very active woman. I would drive 2 hours to Topeka for a non-profit organization, help with every aspect of my business such as driving, lifting, typing, stocking, I participated at my church mentoring which required that I stand and gave 45-60 minute speeches, and I cared for my grandchildren every morning. After the collision, the pain was so severe it radiated from my low back into my hips and buttocks and I constantly suffered from intense headaches. Between the pain and headaches it made caring for my grandchildren and taking care of my store impossible. I was placed on work restrictions of no lifting more than 20lbs and no prolonged standing or walking, as a small business owner this was a huge burden on my business.

I treated for a year and a half and ultimately needed epidural injections to be able to continue to work. However, just one injection cost about \$2,000 and my medical bills were already at \$25,795.11. The driver that hit me had a minimum liability policy of \$25,000. When I looked at my insurance policy it showed me I had "Uninsured & Underinsured Motorists Each Person/Each Occurrence" for \$25,000/\$50,000. The papers and bills from insurance company showed I was paying for this coverage. I asked my attorney if I had "underinsured" motorist coverage as I was hit by a driver without enough insurance. My attorney told me I would not be able to recover Underinsured Motorist coverage as my carrier GEICO got a credit or offset for the amount paid by the other driver's policy. Thus, I was stuck with bills and not enough insurance to pay despite having "Underinsured" motorist coverage that was virtually worthless.

I bought my insurance to make sure I had whatever coverage I legally needed. I thought I did, but I did not. I support this House Bill 2104 so no one has to experience what I did. The minimum limits of liability insurance should be raised and the Underinsured Motorist "offset"/"credit" should be stopped.

  
Sandra Watie





Tel: 1-800-641-3000

# Declarations Page

This is a description of your coverage.  
Please retain for your records.

GEICO INDEMNITY COMPANY  
P.O. Box 509090  
San Diego, CA 92150-9090

**Policy Number: 4275-23-75-11**

**Coverage Period:**

01-24-15 through 07-24-15

12:01 a.m. local time at the address of the named insured.

Date Issued: December 25, 2014

Item 1:

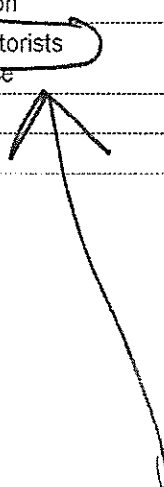
SANDRA D WATIE AND JACOB E  
WATIE  
2537 N MINNESOTA ST  
WICHITA KS 67219-4520

Email Address: watie315@hotmail.com

<u>Named Insured</u>	<u>Additional Drivers</u>
Sandra D Watie	None
Jacob E Watie	

<u>Vehicles</u>	<u>VIN</u>	<u>Vehicle Location</u>	<u>Finance Company/ Lienholder</u>
1 2003 L Rover	DiscySEAWD SALTW16403A796316	Wichita KS 67219	
2 1997 Buick	LeSabre Cu 1G4HP52K8VH532143	Wichita KS 67219	
3 2003 Linc	TownCar SI 1LNHM82W83Y705279	Wichita KS 67219	
4 1988 Cad	Deville 1G6CD5157J4317652	Wichita KS 67219	

<u>Coverages*</u>	<u>Limits and/or Deductibles</u>	<u>Vehicle 1</u>	<u>Vehicle 2</u>	<u>Vehicle 3</u>	<u>Vehicle 4</u>
Bodily Injury Liability					
Each Person/Each Occurrence	\$25,000/\$50,000	\$61.00	\$54.30	\$54.30	\$63.20
Property Damage Liability	\$25,000	\$108.70	\$96.80	\$96.80	\$112.70
Medical Payments	\$1,000	\$4.00	\$3.60	\$3.60	\$5.60
Basic Personal Injury Protection	Non-Ded	\$41.20	\$40.20	\$37.10	\$61.70
Uninsured & <u>Underinsured Motorists</u>					
Each Person/Each Occurrence	\$25,000/\$50,000	\$7.70	\$7.70	\$7.70	\$7.70
Comprehensive	\$1,000 Ded	\$298.40	-	\$135.50	-
Collision	\$1,000 Ded	\$275.30	-	\$166.00	-



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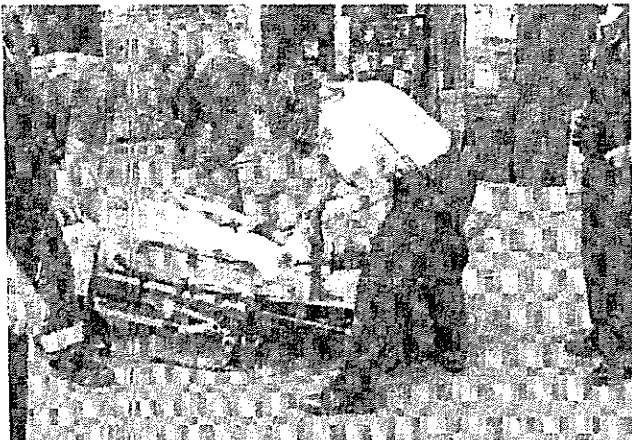
My name is Kelli Pease. I am a mother of four children. I live in Park City, Kansas in District 91. My representative is Dr. Greg Lakin. I'm happy to be here in front of you and I appreciate your attention.

On August 19 of 2015, my life was forever changed for the worse when I was a pedestrian at Quik Trip and a car that was driving hit me because the driver was not paying attention to the cross-walk areas. The driver of the car that hit me looked like he was going to stop for me to cross so I began walking across the parking lot. Without warning he sped up and struck me...I had no time to react. I hit the hood and the windshield before falling to the pavement. The contact with the speeding car affected me physically and emotionally. I was diagnosed with post-traumatic stress disorder.

The car hit me on the left hip and impact tore both my gluteus medius muscles on my hip. It was not until this collision until I realized how much these muscles did to allow you to walk and lift. I also had low back pain and headaches from where I hit the pavement, but the worst of all was the terrible nightmares. The torn muscles in my hip made walking difficult. I have a special needs child and I was not able to care properly give during that time. I struggled with getting dressed, laundry, even taking showers let alone helping my son do these things.

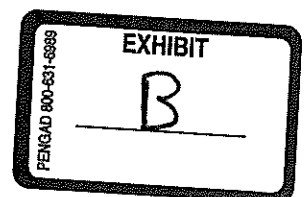
Soon my medical bills starting coming in and I was going to need treatment in the future. My attorneys pursued the other driver's insurance policy only to find out he had a minimum limits policy. I asked my attorney what "minimum limits" meant and he said it meant the other driver only had \$25,000 of coverage. After the medical bills and expenses there was not enough money for my injuries. Thankfully, I have Medicare to help with my future medical bills, but I don't think it is fair that Medicare has to pay for my bills.

After obtaining the minimum limits from the other driver's Progressive policy I asked my attorney about pursuing my Key Insurance policy. He explained that under current Kansas law I could not make an underinsured claim even though I paid for underinsured coverage. This was very confusing to me. If I had access to that underinsured motorist coverage through my own Key policy I would have been sufficiently covered. It is very upsetting that I am required by the law to pay for coverage that I cannot use and I strongly encourage this committee to help and protect everyone and raise the minimum limits of liability insurance and also allow underinsured claims even when the underinsured amount is the same as the liability.



What happened to me should happen to no one else. Thank you for taking the time to listen to me.

Kelli Pease



My name is Mohamad Noori. Nearly one year ago, on February 17, 2016, my life was completely changed when I was involved in a motor vehicle collision and the only automobile insurance involved was a minimum limits policy.

Before the wreck, I was a successful industrial engineer, running my own small business, a home owner, happily married and a proud of father of three. I live at 6242 E. 44<sup>th</sup> St. North, Bel Aire, Kansas 67220. My elected representatives are Representative K.C. Ohaebosim and Senator Carolyn McGinn.

On the day of the collision, another driver who was busy talking on her cell phone and struck my car twice. The impact caused a significant injury to my left foot. I visited the emergency room and later sought treatment from Dr. Hewit Goodpasture of Via Christi's Wound Care Clinic in Wichita, Kansas, where I continue to receive treatment.

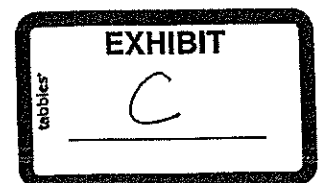
Due to the nature of my injury, I was ordered to remain off work until my left foot fully healed. My foot continues to be injured and I struggle to take care of simple household duties. Most significant to me, I am still unable to return to work because I must keep my foot elevated to prevent further injury and infections. I was the sole income earner in my family. Because I am unable to financially support my family, I have had to sell my home, my wife has filed for divorce, and my relationship with my children is strained because they do not understand why I cannot provide them the extra financial support I was once easily able to do.

I have had medical treatment for nearly a year and I continue to be treated at the Wound Clinic by Dr. Goodpasture. If my wounds do not heal in the next few months, I will have to have surgical grafting on my foot. My medical bills are over \$31,000.00 right now and they continue to grow.

The driver that hit me had a minimum liability policy of \$25,000. My insurance policy shows me I had "Uninsured & Underinsured Motorists Each Person/Each Occurrence" for \$25,000/\$50,000. The papers and bills from insurance company showed I was paying for this coverage. I asked my attorney if I had "underinsured" motorist coverage as I was hit by a driver without enough insurance. My attorney told me I would not be able to recover Underinsured Motorist coverage as my carrier GEICO got a credit or offset for the amount paid by the other driver's policy. Now, I am stuck trying to pay the medical bills without enough insurance for the bills even though I supposedly have "Underinsured" motorist coverage. My "Underinsured" motorist coverage is basically worthless.

I bought my insurance to make sure I had whatever coverage I legally needed. I thought I did, but because of the current laws, I actually did not. I support House Bill 2104 so no one else will be forced to experience what I have undergone. The minimum limits of liability insurance should be raised and the Underinsured Motorist "offset"/"credit" should be stopped. I ask all of you to vote in favor of House Bill 2104. Thank you for taking the time to learn about my situation.

  
Mohamad Noori



My name is Tommie Burton and July 5, 2013 my life changed forever by a tragedy that was well covered by the Wichita Eagle and all of the television news stations.

I was driving in Northeast Wichita at night and during a power outage.

An older gentleman with his grandson were on horseback, crossing the street. This was a gentleman well-known to the community.

I witnessed a vehicle collide into the horse with the grandfather and grandson on its back. I could tell both riders were seriously injured. The older gentleman died shortly after the collision. Attempting to help them, I got out of my car to render aid. The driver of the vehicle that hit them fled the scene. While myself and another citizen was rendering aid, another car sped through the scene and hit all four of us.

I was very seriously injured. The next thing I remember is I woke in the ambulance.

I had a broken back, left knee fracture and broken left femur and had to have emergency surgery at Wesley Medical Center. I had \$120,375.83 in medical expenses as well as lost wages as I could not work my job at Aerospace Logistics. Because I could not work, I eventually lost my job. The stress associated with my severe injuries also caused my marriage to fail. I suffer from my severe injuries on a daily basis.

The police found the driver that hit me was at fault for failing to pay attention.

This negligent driver only had minimum limits of \$25,000. That was not much help when my damages were hundreds of thousands of dollars.

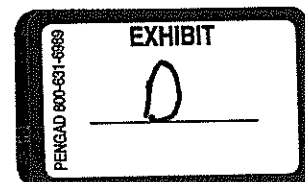
I had bought my own auto insurance, but I learned from my attorney that it too was only a minimum liability limit policy of \$25,000. I thought that I could get some help from my own insurance company, because I had been paying for it. However, my attorney told me that I had no "underinsured motorist coverage" as my limits were the same as the negligent driver's limits.

A \$25,000 liability policy is not enough. An additional \$25,000 in coverage would make a world of difference with respect to helping me with the medical treatment I need, replacing the income that I lost and continue to lose.

My life will never be the same. The minimum limits should be raised to protect everyone. Even \$50,000 is not enough, but it is a good start.

My address is 1325 Chautauqua, Wichita, KS.

  
Tommie L. Burton



My name is Vance Hopkins I was a victim of a drunk driver who hit me and then became a victim of the Kansas Insurance Laws.

My wife Laura and our family lives on Timbers Edge Court in Mulvane, Kansas. On July 13, 2017 of this year, I was driving south on Broadway in Sedgwick, County. Another driver turned into me and I was seriously injured. My leg injury peeled back the skin all the way to my bone. The ambulance came and EMS noted the tibia bone was exposed and I had a large cut to my heel.

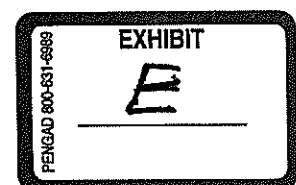
The vehicle that collided with me was at fault and the motor vehicle accident report showed that I did nothing wrong. I later learned the other driver was drunk.

I was then taken via ambulance to Via Christi Hospital – St. Joe. They determined that I needed to have surgery. They kept me over night and did surgery and I got stitches in my left leg. I wanted to get released the next day because I was really worried about my medical bills. My Via Christi bills, ambulance bills and treatment bills were just short of \$25,000. Plus, I was off work for about 2 weeks. I am a construction manager and we build gas stations. At the time of the wreck, we had just been assigned a new job which would have required me to work 16 hour days to finish the job. I would have also gotten a lot of overtime, but I missed out on it because I was not able to work. My wife works for the school system and does not get a paycheck in the summer, so it was a very difficult time for our family. There was not enough money to pay for all my lost wages and expenses due to the medical bills.

Unfortunately, I learned the drunk driver only had \$25,000 of insurance. I then went to my own insurance company GEICO as I knew I had purchased Underinsured Motorist Coverage. My attorney got my statement of coverage from GEICO and it showed I had Underinsured Motorist coverage, in fact I paid a premium for it. However, I learned that in Kansas I really did not have Underinsured Motorist coverage because of how the law is in our state. My Coverages say "Uninsured & Underinsured Motorists Each Person/Each Occurrence \$25,000/\$50,000." My attorney explained that GEICO gets credit for the \$25,000 the drunk driver had. I don't think that is fair. I don't think the insurance company should be able to charge me for something I don't get.

I also believe the minimum limits are too low, if the drunk driver had a little more coverage it would have been beneficial for me and my family. Please protect Kansas citizens and make a change.

Vance Hopkins







Tel: 1-800-841-3000

# Declarations Page

This is a description of your coverage.  
Please retain for your records.

GEICO INDEMNITY COMPANY  
One GEICO Boulevard  
Fredericksburg, VA 22412-0003

**Policy Number: 4214-29-67-68**

**Coverage Period:**

12-22-16 through 12-22-17

12:01 a.m. local time at the address of the named insured.

Date Issued: November 8, 2016

Item 1:

VANCE M HOPKINS AND LAURA  
HOPKINS  
1643 N TIMBERS EDGE CT  
MULVANE KS 67110-1123

Email Address: lizabenay6@yahoo.com

<u>Named Insured</u>	<u>Additional Drivers</u>
Vance M Hopkins Laura Hopkins	None

<u>Vehicle</u>	<u>VIN</u>	<u>Vehicle Location</u>	<u>Finance Company/ Lienholder</u>
1 2004 Honda	VT750C	JH2RC50014K011330	Mulvane KS 67110

<u>Coverages*</u>	<u>Limits and/or Deductibles</u>	<u>Vehicle 1</u>
Bodily Injury Liability		
Each Person/Each Occurrence	\$25,000/\$50,000	\$22.90
Property Damage Liability	\$25,000	\$4.60
Uninsured & Underinsured Motorists		
Each Person/Each Occurrence	\$25,000/\$50,000	\$15.30
Comprehensive	\$50 Ded	\$6.90
Collision	\$50 Ded	\$41.30
Towing & Labor Costs		\$8.00
<b>Total Twelve Month Premium</b>		<b>\$99.00</b>

\*Coverage applies where a premium or \$0.00 is shown for a vehicle.

If you elect to pay your premium in installments, you may be subject to an additional fee for each installment. The fee amount will be shown on your billing statements and is subject to change.

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